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CONSTITUENT ASSEMBLY  
AND  
OUR DEMAND

BY  
JAI GOPAL NARANG

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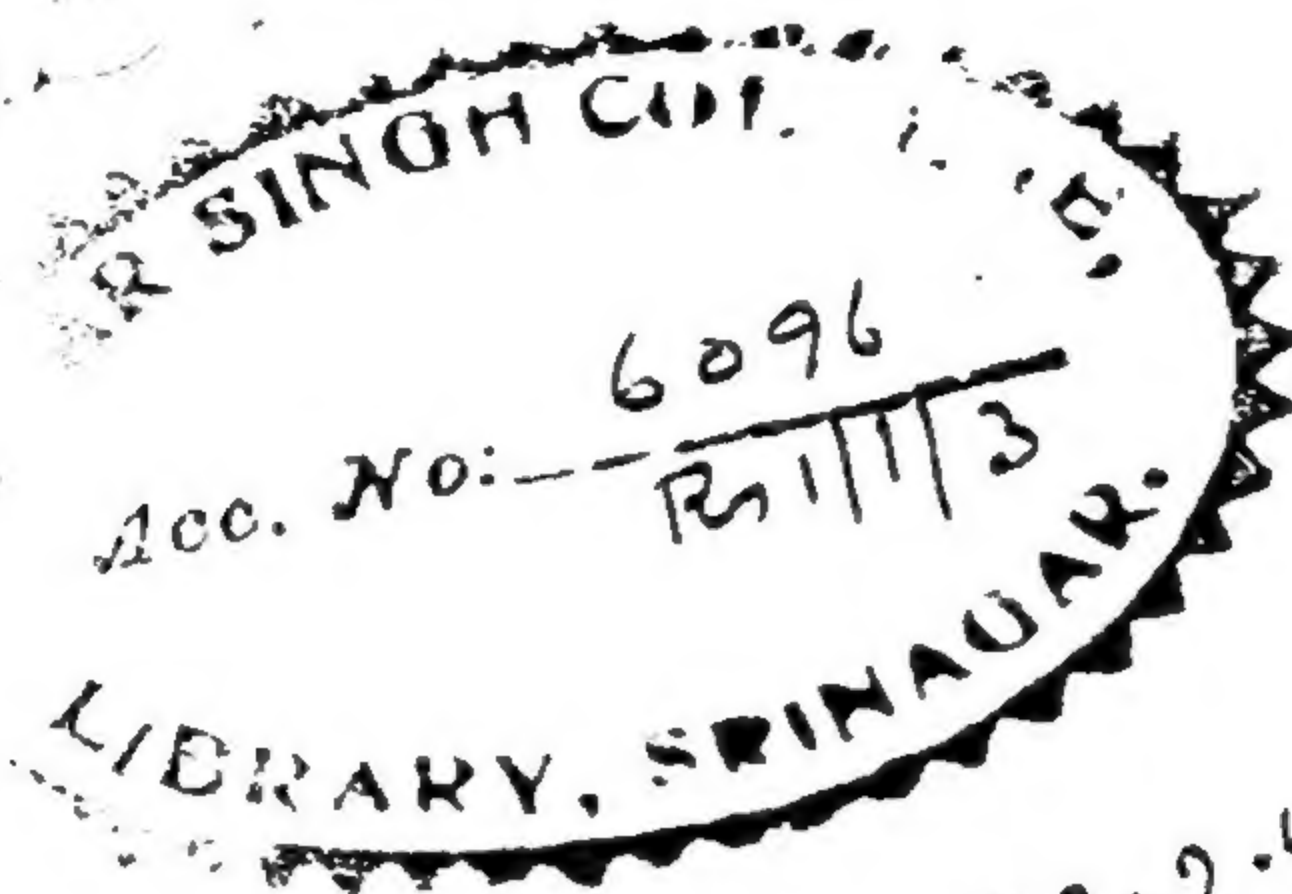
FOREWORD BY  
JAWAHAR LAL NEHRU



1940

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Congress Party.



DEDICATED  
TO  
Dr. GOPI CHAND BHARGAVA



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## FOREWORD

Circumstances, over which I had little control, made me a politician. They associated me with a great organisation and sometimes, perhaps, that association made a difference to the course of events. Certainly it made a difference to me. I occupied positions of responsibility and dignity in that organisation, and the high privilege of working for a great cause in comradeship with many brave men and women was mine. How can I complain of something which has brought so much joy to me and fulfilment of life's purpose? I do not complain of course. I am proud of my organisation, my comrades and the work we have done together. But still positions of responsibility and dignity are apt to cramp one's style, to limit one in some respects, to prevent one from that free expression of one's being in word and deed which, in a saner world, should be the natural prerogative of each individual.

These thoughts came to me when I was asked by Shri Jai Gopal Narang to write a foreword to his booklet. My first impulse was to refuse, indeed I wrote to express my regret. It was difficult for an active politician, however ill-fitted he might be for the role, to forget the native caution of his species.

To write a foreword to a book might lead the reader to imagine an approval of everything contained in the book. It was probable that there was something in the book with which I did not agree; there might be much here and there which might complicate matters for me. And even if I agreed with the burden of the argument, the manner of presenting it might not be to my taste. In any event I had no business to commit even indirectly the organisation of which I was a member to something they might not like. So, without even looking into the book, I refused.

There was also another difficulty—the problem of finding time on the eve of the Ramgarh Congress when there was so much to be done.

And yet I was drawn to the manuscript and I glanced through it. I began to repent. I did not like everything it contained, but I did feel that it was a job competently done and deserving commendation. The subject was a vital one. Everyone was talking about it and some had written about it. And there were the critics of course. And yet it was astonishing how few had given serious thought to the matter, and perhaps our critics, who had favoured us with their criticisms so generously, had given the least thought of all. There are a number of worth-while writings on this subject. Shri M. N. Roy has written frequently; Dr. Ram Manohar Lohia has issued a pamphlet on behalf of the U. P. Provincial Congress Committee. Yet there is room for

far more. It is immaterial whether one agrees or not with everything that is written in these brochures. It is enough that they force us to think of the varied implications of this idea which has become a solid fact in our politics to-day.

So I thought that I should commend this booklet to all who are interested in the Constituent Assembly. And this thought has led me to pen these lines in the small hours of the morning.

I can understand, though I do not appreciate, the criticisms of those who differ from us fundamentally in politics; those whose ideas of Indian freedom are limited by the will and desire of the British Parliament; those who are afraid of revolutionary change; those who are terrified at the prospect of the masses marching along the stage of Indian politics. But it has surprised me greatly to find some—there are not many—among those who claim to be the most ardent champions of Indian independence, who have also joined this band of critics.

I am convinced that there is no way out for us, if we aim at real democratic freedom, except through a Constituent Assembly. The alternatives are: (1) Continuation, in a greater or less degree, under the control of the British Parliament; (2) some kind of fascist or military dictatorship or dictatorships; (3) Soviet communism in some parts of India with disruption and chaos in other parts; (4) complete disruption and chaos.

For my part I would like to have a socialist economy all over India and I think that the Soviet form of government, with certain variations and adaptations suited to India, may well fit in here. Thereby I do not mean that the Russian system or methods should be introduced here *in toto*. I disapprove of much that has been done there. I think that the Soviet system can be allied to a vast deal of real democracy. But any attempt to introduce Sovietism in India would, I am sure, now and for some time to come, lead to terrible conflicts and disruption. Whatever the outcome might be, and the outcome would be doubtful, the cost would be almost unbearable.

Therefore, of necessity, I am led to the conclusion that the way of the Constituent Assembly is the only way. But let it be remembered that this way is not the way of advancing step by step to the haven of Dominion Status. It means the creation of a new State ; it means the walking out and away from the economic foundations and structure of Imperialism. This cannot be done by the wisest of lawyers sitting together in conclave ; it cannot be done by small committees trying to balance interests and calling that constitution-making ; it can never be done under the shadow of an external authority. It can only be done effectively when the political and psychological conditions are present, and the urge and the sanctions come from the masses. Hence the vital importance of adult suffrage.

Are these political and psychological conditions present to-day? No, obviously not, or else we would have got the Constituent Assembly already. But I cannot say about to-morrow or the day after, for we live in dynamic and swiftly-moving times and all manner of forces are at play.

Why do we ask the British Government for a Constituent Assembly? Strictly speaking we are not asking for any gift. We are stating what we proposed to have and are going to have some time or other. We shall have it when we are strong enough for it, no sooner, and probably after a struggle. But then are we to refrain from saying what we want and aim at, because for the moment we cannot attain it? Surely that is not even the way of preparation. And then it is never wise to rule out the odd possibility of gaining our objective otherwise, for our strength and world events may force the pace. To envisage this possibility does us no harm, unless it leads us to complacency and a giving up of the idea of struggle.

Why do we ask the British Government to acknowledge the independence of India? Does that make any difference? Of course it does, though it does not mean that we have gained our objective or that the British Government will not go back on their word. The mere fact that they refuse to acknowledge it, itself shows what value they attach to such a declaration. If there was such a clear declaration of Indian independence, of the right of



the Indian people to frame their own constitution through a Constituent Assembly elected by adult franchise and without any external interference, that in itself would create a psychological situation of revolutionary significance. That in itself will not take us to our goal but it will strengthen us enormously and bring the masses into play.

The question of Constituent Assembly is an acid test for all of us. It shows where each one of us stands. Britain refuses because she will not give up her Imperialism. The liberals in India, or the Muslim League, or other protestants, oppose because they do not want real independence and they have no conception of a new State, or, if they can conceive of it, they dislike it. Howsoever much they might dislike things as they are, they prefer them to that new free State where the people can make or unmake. Hence the objections to adult suffrage, and even to large numbers of people being associated with this undertaking. Small committees of the elect are suggested whose chief function will be to move wearily within the limits laid down by the British Government and to discuss interminably communal claims and counter-claims.

That is not our idea of Indian freedom or the State that we seek to build

*Allahabad*  
*March 8, 1940.*

JAWAHARLAL NEHRU

## INTRODUCTION

It is not without hesitation that the present writer ventures to place this book in the hands of the gentle reader. The National Movement is passing through a grave and critical stage and the forces of the Indian Revolution, it is clear, have amassed enormously a great momentum during these few months. After declaring India as a belligerent country, without any reference to her people, and exploiting India's resources in the war, which being an affront to them, the spokesman of British Imperialism has had his game at chess and after sending for the politicians, fifty-two in number, to interview him, has declared that Imperialism, if at all it existed, has immolated itself. And that Mr. Chamberlain has found out what is good for us, and that they shall hold on to what they have just to save us against ourselves.

To Mahatma Gandhi, more than anybody else, India feels grateful for the beautiful manner in which he has cornered the British Government and has exposed the anti-nationalist and reactionary character and mentality of some of the communalists. What Congress has shown to the world is that we are being asked to defend what has been so



contemptuously denied to us and that if we strike for freedom, it shall be with the firm conviction that we stand for all that is true, noble and great in the human race. It has also been declared by the Congress that unwillingness on the part of British Imperialism to liquidate is due to the fact that Great Britain is carrying on the war fundamentally for Imperialist ends and for the preservation and strengthening of her Empire, which is based on the exploitation of the people of India as well as of other Asiatic and African countries. It was in these circumstances that the Congress declared that nothing short of complete independence could be accepted by the people of India.

It is beyond a shadow of doubt that Indian freedom cannot exist within the orbit of Imperialism, and Dominion Status or any other status within the Imperial garb is wholly inapplicable to India and is not in keeping with the dignity and prestige of a great nation. It was here that the Working Committee of the Indian National Congress declared that the people of India, alone, can properly shape the constitution indigenous to their country and determine their relations to other countries of the world through a Constituent Assembly elected on the basis of adult suffrage. It is since then that India is at war with Britain.

The Congress withdrew their ministries from the provinces in order to dissociate India from the war and to enforce the right of the people of India to

self-determination.

Diverse people reacted to the resolution of the Congress Working Committee in diverse ways. The liberal patriarchs true to their tradition of being cloistered monks of the Indian politics raised their hands in holy horror and talked glibly of being practical minded, some gilded knight-errants of dame democracy talked of 'a dozen wise men', somewhere else a plan of another large edition of a Round Table Conference was being hatched. The revolutionary phrase "Constituent Assembly" deprived of all its historic significance within a period of two months; 'Constituent Assembly' was reduced to an omnibus catch phrase by which every professional politician chose to mean whatever he wishfully thought. And like a hat which has lost its shape because everybody has worn it, the term 'Constituent Assembly' ceased to mean what it should really mean. It was just to fight this baffling vulgarisation and to bring home the true conception of this essentially a revolutionary doctrine that the present writer has undertook this work.

*Lajpat Rai Bhawan,  
Lahore.*

*10th March, 1940.*

JAI G. NARANG



## ACKNOWLEDGEMENTS

I lack words sufficient to express my grateful thanks to Pandit Jawahar Lal Nehru who has so kindly blessed my efforts to explain our demand for the Constituent Assembly and to expose fallacies about it.

I am also glad to take this opportunity of acknowledging my sincere thanks to my friend and colleague in the Research Department of the Punjab Assembly Congress Party Comrade Rajendra Nath who has taken great pains in the preparation of this book.

My thanks are also due to Mr. Satya Dev Narang for his assistance.

# CONSTITUENT ASSEMBLY

## CHAPTER I

### ITS ORIGIN IN INDIAN POLITICS

The principle of self-determination, which found authoritative definition and general acceptance after the Great War, decided the fate of nearly all the great or small nationalities of Europe, and gave an opportunity to those who were bound by community of interests to determine the form of government which suited them. If peace and order, progress and co-ordination of efforts among the various countries are sincerely and genuinely desired, self-determination is the bed-rock on which the constitutional structure of every country must rest. Internal and perpetual peace in every country is the first condition of everlasting world peace, and internal peace demands a form of government which commands the active support of the people. A constitution which does not afford the subjects of a State a chance to control the policies of the government, without any outside interference and restrictions, cannot command their support. But a constitution produced by the representatives of the masses cannot be open to the charge that it

is devised for their exploitation, and it must therefore lead to a permanent internal peace. England claimed to legislate for U.S.A. and eventually U.S.A. found its own legs after the American War of Independence and now it stands free of even the ceremonial tie which exists between dominions and England. Canada would have followed suit, but for the timely recognition of her right to govern her own destinies. Australian provinces proceeded to frame a federal constitution and the British Parliament agreed to pass the federal constitution by the Act of 1900. A similar development arose in South Africa and resulted in the Union Act of 1909. All these developments had their counterpart in the Congress agitation between 1905 and 1908 in India, and the Minto-Morley Reforms of 1910 was the result. The vast constitutional changes, which had freed the dominions from the tutelage of the British Parliament and had brought comparatively sovereign legislatures into existence in the dominions were obviously a prelude to India's growing consciousness of her subordinate position, which could not escape the vigilant and critical eye of England's rivals in the world. The Minto-Morley Scheme was intended to forestall an awkward situation in India no less than in international developments. Egypt, too, was receiving similar sops. The dominions were moving rapidly towards complete emancipation and were enthusiastically asserting the sovereignty of their

legislatures, had raised their own standing armies and were also planning the construction of their fleets, and had, for all practical purposes, reduced England to the position of the League of Nations at Geneva to-day, when the Great War precipitated a situation which revealed the necessity of drawing together for common defence. India was also drawn into the struggle. The conclusion of the Great War was followed by the definition of the principle of self-determination, for the benefit of Europe.

The principle of self-determination or the right of every nation to determine the form of constitution under which it should live, though more definitely propounded by President Wilson at the time of settling the terms of peace after the Great War, is the inherent right of every nation and can neither be denied nor barred by prescription. It was claimed by and conceded to even small nations or sub-nations of a few millions in Europe and big empires were sliced away into independent little states on the principle of self-determination. Where it did not suit the big powers, they established their hegemony under the formula of "mandates" though mandates only extended to non-European countries and were created in favour of only the victors, the vanquished being considered "unfit" to claim such rights. India, which had participated and gave enthusiastic and unstinted support in

the Great War on the side of the Allies, was made an original member of the League of Nations to lull both India and the world into the belief that she was qualified to occupy that position. Mr. Montague, the then Secretary of State for India, anticipating events came to India in 1917 and staved off an anomalous situation by the declaration of 17th August, 1917 and later by the inauguration of the Montford Reforms which synchronised with the horrors of Jallianwala Bagh at Amritsar. This Jallianwala atrocity was designed to crush India's demand for self-determination in a bath of blood.

The economic structure of the pre-war world was shattered to smithereens by the war and has been followed by active distress and misery. People began to realise that the structure of society based upon exploitation is the masked demon of war. It is the millions who toil the whole year long but are deprived of the legitimate fruits of their labour, to enrich a few of one country and the rivalries of the few lead to the butchery and starvation of millions. A world which needs co-operation and goodwill is sundered in armed camps and the toilers who are squeezed dry of their energy find nothing but economic distress and abject impoverishment. Men and women feel that they have had enough of parental authority, of trusteeship, of domination by a few who claim to be wiser than the men and women



who want peace, security and better living and now they want that they themselves should be the architect of their destinies. The cry of self-determination is rooted in the economic distress of millions. It is a cry against the existing order of things. It is a demand for fundamental changes.

The situation changed glaringly towards the end of the war. There was a tremendous mass awakening which could not be expressed except through an open organisation. The Congress became the focus of the mass awakening and objectively became the instrument for the attainment of the object of national freedom. The idea of Constituent Assembly then had been conceived of by Mahatma Gandhi but he used a different language. He said, "I look forwards to an honourable settlement.....that will assure to her full immediate *Swaraj* in accordance with the wishes of her chosen representatives." In 1922, he defined *Swaraj* with British Connection as follows :

"Let us see clearly what *Swaraj* together with the British Connection means. It means undoubtedly India's ability to declare her independence if she wishes. *Swaraj*, therefore, will not be a free gift of the British Parliament. It will be a declaration of India's full expression. That it will be expressed through an Act of Parliament is true. But it will be merely a courteous ratification of the declared wish of the people



of India, even as it was in the case of the Union of South Africa. Not an unnecessary adverb could be altered by the House of Commons. The ratification in our case will be of a treaty to which Britain will be a party. Such *Swaraj* may not come this year, may not come within our generation. But I have contemplated nothing less. The British Parliament, when the settlement comes, will ratify the wishes of the people of India as expressed not through the bureaucracy but through her freely chosen representatives." Although the assembly that was to frame the charter of freedom had not then received the name of a "Constituent Assemely", yet the idea that the future constitution of India is to be determined not by any outsider but by Indians themselves through their representatives was there in those days.

It is well known that until 1929 the Congress did not stand for National Independence. Its object was to attain self-government within the British Empire. In 1920 some Congressmen giving expression to the objective striving of the Indian masses, put forth the demand for declaring the object of the Congress as complete independence. The demand was stoutly opposed by almost all the leaders of the Congress. Year after year the demand was pressed only to be rejected till 1929 when the Lahore Congress passed the resolution proclaiming the object of the Congress to be the

attainment of complete independence. A year before 1929 Comrade M. N. Roy also suggested that the agitation against the Simon Commission should be developed with the slogan of a Constituent Assembly.

Later on in June 1934 when the period of Civil disobedience came to an end and the All-India Congress Committee and the Working Committee were permitted to hold their meetings, the British Government was at that time engaged in preparing reports and in other deliberations which concluded in the Government of India Act of 1935. The most important task of the Congress, therefore, consisted in formulating its attitude towards the efforts of the British Government who wanted to impose that constitution on an unwilling India. The Congress declared itself opposed to British Government's ventures into constitution-making for India. It did so because the nature of the British attempted constitution and its specific clauses were such as would hold India under the foreign yoke perpetually. The Congress was opposed to it because the British-wrought constitution was designed to hold India in abject poverty and economic distress. The Congress was deadly against the second part of the bill "The Indian Federation" which sought to retain India under the permanent tutelage of British Imperialism. She wanted that part to go lock, stock and barrel. Moreover the Congress, consistent with her creed of

National Independence, could not recognise and accept the right of British Parliament to make a constitution for India. To the Congress, the right of Britain to rule over India and to dictate the nature of government was the right of usurpation with no moral or political sanction behind it. The Congress, in order to fight the British excesses tooth and nail looked out for an authority which could express the sovereign will of the Indian people and lay down the constitutional framework for India. This authority the Congress found in the Constituent Assembly and it was in the first half of 1934 that the Swaraj Party, the parliamentary wing of the Congress, presented the policy of Constituent Assembly as a challenge and an alternative to Britain's authority. They passed the following resolution in their conference:

"Whereas this conference is of the opinion that the proposals of His Majesty's Government for a new constitution for the Government of India contained in the White Paper are considered as a whole not only the negation of the National Demand made by Mahatma Gandhi on behalf of the Congress at the Second Round Table Conference but calculated to perpetuate the political subjection and economic exploitation of India's people, this conference resolves that the Swaraj Party should take all the necessary steps to secure the rejection of these proposals by the country. This conference claims for India, in

common with other nations, the right of self-determination and is of the opinion that the only method of applying that principle is to convene a Constituent Assembly represented by all sections of Indian people to frame an acceptable constitution.

"This conference is further of the opinion that the consideration of the acceptance or the rejection of the mode and proportion of representation as contained in the Communal Award is premature at this stage. The time for considering the same will arrive when a Constituent Assembly is convened."

Pandit Jawahar Lal has rendered a signal service to India by paving the way for the destruction of haphazard adjustments and the evolution of scientific political thinking and by providing a "frame of reference" or the "scale of measurement". It was in those days that he claimed that the only constitution which could be acceptable to the people would be one framed by their accredited and duly elected delegates and therefore the first need of the moment was the summoning of a Constituent Assembly. This idea was fully endorsed, adopted and propounded by the Working Committee of the Congress and it was further elucidated and elaborated by the Congress Parliamentary Board. Panditji has expressed his idea of the Constituent Assembly in such a remarkable manner

that we feel quoting him *in extenso* :

" The suggestion made by me that both the political and communal problems in India should be solved by means of a Constituent Assembly has met with considerable favour. Gandhiji has commended it and so have many others. Others again have misunderstood it or not taken the trouble to understand it.

" Politically and nationally if it is granted, as it must be, that the people of India are to be the sole arbiters of India's fate and must, therefore, have full freedom to draw up their constitution, it follows that this can only be done by means of a Constituent Assembly elected on the widest franchise. Those who believe in independence have no other choice. Even those who talk vaguely in terms of a nebulous Dominion Status must agree that the decision has to be made by the Indian people. How then is this decision to be made ? Not by a group of so-called leaders or individuals. Not by those self-constituted bodies at all, small interest groups and leave out the vast majority of the population. Noteven, let us admit, by the National Congress, powerful and largely representative as it is. It is of course open to the Congress to influence and largely control the Constituent Assembly if it can carry the people with it. But the ultimate political decision must lie with the people of India acting through a popularly elected

Constituent Assembly. This assembly of course can have nothing in common with the sham and lifeless councils and assemblies imposed on us by an alien authority. It must derive its sanction from the people themselves without any outside interference. I have suggested that it should be elected under adult or near adult franchise. What the method of election should be can be considered and decided later. Personally I favour the introduction, as far as possible, of the functional system of election as this is far more representative of real interests. The geographical system often covers up and confuses these interests. But I am prepared to agree to either or to a combination of both. I see no difficulty, except one, and that is an important one in the way of such a Constituent Assembly being elected and functioning. This functioning will be limited to drawing up of a constitution and then fresh elections will have to be held on the basis of the new constitution.

“The one difficulty I referred to is the presence and dominance of an outside authority, that is the British Government. It is clear that so long as this dominance continues no real Constituent Assembly can meet or function so that an essential preliminary is the development of sufficient strength in the nation to be able to enforce the will of the Indian people. Two opposing wills cannot prevail at the same time; there must be conflict between



them and a struggle for dominance, such as we see to-day in India. Essentially this struggle is for the preservation of British vested interests in India and the White Paper effort is an attempt to perpetuate them. No Constituent Assembly can be bound down by these chains and so long as the nation has not developed strength enough to break these chains, such an assembly cannot function.

"This assembly would also deal with the communal problem, and I have suggested that, in order to remove all suspicion from the minds of a minority, it may even, if it so chooses, have its representatives elected by separate electorates. These separate electorates would only be for the Constituent Assembly. The future method of election as well as all other matters connected with the constitution would be settled by the assembly itself.

"I have further added that if the Muslim elected representatives for this Constituent Assembly adhere to certain communal demands I shall press for their acceptance. Much as I dislike communalism I realise that it does not disappear by suppression but by a removal of the feeling of fear or by a diversion of interests. We should, therefore, remove this fear complex and make the Muslim masses realise that they can have any protection that they really desire. I feel that this realisation will go a long way in toning down the feeling of communalism.

"To go back to the Constituent Assembly. If a

really popular assembly met with freedom to face and decide the real issues, immediately these real economic problems would occupy attention. The so-called communal problem will fade into the background for the masses will be far more interested in filling their hungry stomachs than in questions of percentages.

“ This assembly will release the vital forces in the country which are at present suppressed by our foreign rulers as well as by Indian vested interests. The lead will go to the masses and the masses when free, though they may sometimes err, think in terms of reality and have no use for myths. The workers and the peasantry will dominate the situation and their decisions, imperfect though they be, will take us a long way to freedom. I cannot say what the Constituent Assembly will decide. But I have faith in the masses and am willing to abide by their decision. And I am sure that the communal problem will cease to exist when it is put to the hard test of a real mass opinion. It has been a hot house growth nurtured in the heated atmosphere of conference rooms and so-called all parties' conferences. It will not find a solution in that artificial environment, but it will wilt and die in the fresh air and the sunlight.”

And later on with the abolition of Swaraj Party, the Congress on July 29, 1934, in their election manifesto, asserted that the only alternative to the White Paper is a Constituent Assembly. They



maintained that the White Paper was in no way designed to secure complete or even partial independence. It could easily retard the nation's progress towards it, and it proposed the costly pretence of representative institutions in India with all real control retained abroad. The safeguards with which it bristled were not conceived for the protection of the interests of India. On the contrary they could easily be shown to prevent its economic progress, to deepen the poverty of the masses and perpetuate British exploitation of and domination over India.

The issue of Britain *versus* India emerged in the more concrete slogan of King-in-Parliament *versus* Constituent Assembly.

It was on December 28, 1936, that the Faizpur Congress passed the famous resolution in which they reiterated the demand for a Constituent Assembly. The resolution ran thus :

“ The Congress reiterates its entire rejection of the Government of India Act, 1935, and the constitution that has been imposed on India against the declared will of the people of the country. In the opinion of the Congress any co-operation with this constitution is a betrayal of India's struggle for freedom and a strengthening of the hold of British Imperialism and a further exploitation of the Indian masses who have already been reduced to direst poverty under Imperialist domination. The Congress therefore repeats its resolve not to submit to

this constitution or to co-operate with it, but to combat it, both inside and outside the legislatures, so as to end it. The Congress does not and will not recognise the right of any external power or authority to dictate the political and economic structure of India and every such attempt will be met by organised and uncompromising opposition of the Indian people. The Indian people can only recognise a constitutional structure which has been framed by them and which is based on the independence of India as a nation and which allows them full scope for development according to their needs and desires.

“ The Congress stands for a genuine democratic State in India where political power has been transferred to the people as a whole and the government is under their effective control. Such a State can only come into existence through a Constituent Assembly, elected by adult suffrage and having the power to determine finally the constitution of the country.....”

The idea of the Constituent Assembly since its first official acceptance by the Congress at Faizpur, witnessed a steady pushing into the foreground of Indian politics and has been made the central and pervading problem of our national politics. It has been coming nearer and nearer to an immediate reality. The Government of India Act, 1935, held in a vicious check the social and political energies of the Indian people. The British enforced constitution

was likened to a cage by Shri Rajagopalachariar, the ex-Congress Premier of the Madras Government, when at the end of 1937 the constitutional problem was discussed in the various Provincial Legislatures. In all the Provincial Legislatures, therefore, where the British-made constitution came up for examination, it was almost the unanimous view that the political developments, social growth and economic emancipation of the Indian masses was impossible beyond a shadow of doubt under the existing order.

The resolution proposed and adopted in the various legislatures was on the following lines: "This assembly is of the opinion that the Government of India Act, 1935, in no way represents the will of the nation and is wholly unsatisfactory as it has been designed to perpetuate the subjection of the people of India. The assembly demands that this should be repealed and replaced by a constitution for a free India framed by a Constituent Assembly elected on the basis of adult franchise which allows the Indian people full scope for development according to their needs and desires." Over two-thirds of the total population of British India thus signified their acceptance of the resolution through their representatives in the legislatures.

In all the eleven Provincial Legislatures, none could be found, except perhaps a few henchmen of British commercial interests, who were prepared

to accept the provincial or the central framework of the Act of 1935. The proposed Federation was condemned as an attempt of British Imperialism to run the Indian Government in its own interests with the help of the autocratic Indian princes who owe their position, power and status to British Imperialism. The Congress accepted the provincial ministries not with the idea that they accepted the authority of British rulers either to regulate and control such central affairs as the army, foreign relation, finances or to interfere in the activities of the representatives of the Indian people in the provincial sphere or that they would work the constitution but it was with a view to wreck and undo this most unsatisfactory, reactionary and unacceptable constitution. The constitutional structure erected by the British Parliament was not based on political or social justice. It did not provide for any opportunities of growth. It was expressive of the supremacy of British Imperialism. The special, reserved and vetoing powers of the Governors in the provinces or the Viceroy in the centre did not leave anything in the hands of the elected representatives of the people in the legislatures. Moreover the special safeguards granted to the British financial and commercial interests meant nothing less than keeping India fastly within the shell of British Imperialism.

With the outbreak of war in Europe and Britain's denial to extend those very fundamental

principles of democracy and self-determination for which she professes to be fighting against Germany or Nazism and aggressions, the declaration of India as a belligerent country, the promulgation of ordinances, the passing of Government of India Act Amending Bill and other far-reaching measures which affected the Indian people vitally and circumscribed and limited the powers and activities of Provincial Governments without the consent of the Indian people, the Constituent Assembly has become the focal point of Indian aspirations. Mahatma Gandhi and all other accredited leaders have ardently accepted and advocated the efficacy and desirability of Constituent Assembly.

The Working Committee of the All-India Congress Committee, on that memorable day of 14th September, 1939, in a long statement while asserting the right of self-determination and the demand of Constituent Assembly stated:

"But there is an inherent and ineradicable conflict between democracy for India or elsewhere and Imperialism and Fascism. If Great Britain fights for the maintenance and extension of democracy then she must necessarily end Imperialism in her own possessions and establish full democracy in India and the Indian people must have the right of self-determination by framing their own constitution through a Constituent Assembly without external interference and must guide their own policy. A free democratic India will gladly associate

herself with other free nations for mutual defence against aggression and for economic co-operation. We will work for the establishment of a real world order based on freedom and democracy utilising the world's knowledge and resources for the progress and advancement of humanity."

The right of self-determination and the desirability of Constituent Assembly has been asserted times out of number by all the Congress leaders and during the meetings of the Congress Working Committee and the A.I.C.C.





# CONSTITUENT ASSEMBLY

## CHAPTER II

### WHAT IT MEANS

We have thus briefly traced the origin of the idea of Constituent Assembly in India and have also seen that as an alternative to the British enforced constitution, the Congress has adopted the scheme of the Constituent Assembly. At the very outset question arises what is a Constituent Assembly and what is its fundamental characteristic? An assembly which meets with the purpose of constituting a new State is called a Constituent Assembly. The resolution adopted in the various Provincial Legislatures answers that the Constituent Assembly will frame "a constitution for free India", and that it will be "elected on the basis of adult or near franchise". It is clear that the Constituent Assembly foresees a complete transfer of Indian sovereignty from the British Parliament to the Indian people who, as sovereign, is to express its first will through the Constituent Assembly. This Constituent Assembly is to be the architect of India's constitutional structure. The salient feature of a Constituent Assembly is that it lays down the

legal foundation of a new State. That can be done only after the overthrow of the established State. Consequently, a Constituent Assembly can come into being, not with the sanction of the established State, nor in consequence of an election ordered by the established State, but as the culmination of a popular upheaval against the established State. There had been some vague ideas about the Constituent Assembly in some quarters. Let us guard ourselves against the vulgarisation of this term. The Constituent Assembly is not a Round Table Conference at which representatives of India and of British Imperialism sit together to confer on the type of constitutional framework suited to Indian needs and desires. Britain or any other sort of intervention by the British Parliament is entirely eliminated as a dominating authority. Secondly, it is not a group of so-called leaders or individuals who meet together and guide and control the destinies of millions of people. Moreover it has been taken for granted by many that what the Congress wants is that the Congress and the Muslim League should be represented in the Constituent Assembly. It has been asserted by Shri Rajagopalachariar and other Congress leaders as a grave misconception. "What the Congress has urged is not that either the Congress or the League or both or any other political party should be represented but that a duly constituted electorate should send members to the Constituent Assembly and that these should be



charged with the duty and entrusted with the power to frame a final draft, so that no party organisations or individuals, at large, may thereafter raise any objections or propose modifications. If an electorate duly representing all the peoples of India approve of the draft constitution, no self-constituted representatives can thereafter have the right to make counter-proposals and keep the issue alive." It has been made clear by Pandit Jawahar Lal also that the decision for the future constitution of free India will be arrived at "not by a group of so-called leaders or individuals. Not by those self-constituted bodies at all, small interest groups and leave out the vast majority of the population. Not even, let us admit, by the National Congress, powerful and largely representative as it is. It is of course open to the Congress to influence and largely control the Constituent Assembly, if it can carry the people with it. But the ultimate political decision must lie with the people of India acting through a popularly elected Constituent Assembly." So we have seen that the true conception of a Constituent Assembly is that it is an assembly where the largest number of people are allowed to have their say in the making of their country's constitutional framework through their elected representatives.

It is abundantly clear that the shell of British rule in India will have already burst into pieces or will be in the process of crumbling when the

Constituent Assembly is convened. For the achievement of this goal it is quite essential that the Indian people should be well organised and determined. The Indian National Congress is the instrument or the weapon which brings about this continual and incessant growth of strength and momentum. Its committees are the organs of the struggle for Indian freedom. It is through these Congress committees in villages and towns that the freedom struggle will be brought to such a stage when effective political control and power has passed or is passing from British Imperialism to the Indian people. For this purpose the Congress committees are required to be organised and asked to popularise the slogan of Constituent Assembly among the masses which lie within their jurisdiction.

Let us examine the organs of political power in the country to-day? British Imperialism acts through an army and administrative Civil Service and these are its organs of power, besides princes in the states and other henchmen and strong pillars of British Imperialism. Simultaneously, the political, financial and currency machinery together with big British exchange banks and other British industrial and commercial concerns are the Empire's organs of economic power. More graphically, barracks and police outposts, bank buildings and government houses are the repositories of British Imperialist power. Opposed to these are the national and local committees of the Indian National Congress and

these along with other associations aspiring for political or social justice, e.g., Kisan Committees, Trade Unions and Student Unions, and we must add Majlis-i-Ahrar and Jamiat-ul-Ulema, are the organs of political power fighting for the free Indian State. Like the repositories of British Imperialism, the National Movement too has its Congress Working Committee where it concentrates and gives shape to its power and quite as essentially it is spread in almost every Indian home and over the vast and numerous meeting-places, streets, fields and factories. Consequently the struggle for political power to-day is the struggle between Imperialist instruments and Congress committees.

It is essential rather inevitable that effective political power must pass from Imperialist outposts to the National Congress before the Constituent Assembly can be summoned. To comprehend the relevance of the demand for a Constituent Assembly to this transfer of effective political power, let us review in brief the past freedom movements again for the purposes of elucidation. To the Imperialist machinery of the Simon Commission, we gave the answer of a general boycott and our positive demand was then Dominion Status. The organs of freedom movement were then engaged in the negative task of organising boycott demonstrations, but aside from agitating for Dominion Status like that of Canada or Australia, their positive organisational task in the sphere of constitution-

making by the people as a whole was nil. Although it was suggested by Comrade M. N. Roy that the positive demand of the Congress against the Simon Commission should be the slogan of Constituent Assembly. But unluckily it was suggested to be rejected by the Congress officially. In 1929 we made one of the biggest advances in our struggle for freedom when the Lahore Congress accepted complete independence as our national goal. Again, during the Civil Disobedience Movement the organs of national movement were chiefly engaged in the negative task of violating Imperialist laws and their positive task was restricted to their own strengthening but there was no clear indication of what would replace the Imperialist structure after the successful termination of the struggle. It is here that the national demand for the Constituent Assembly gives to our negative task of destruction of Imperialist system a positive organisational aspect. To Pandit Jawahar Lal Nehru, more than to any other person, belongs the credit of having filled up this important vacuum of our freedom movement. Since then, rather since the outbreak of war in Europe which threw the Indian rather the entire world politics into a melting pot, the slogan of Constituent Assembly has been used as a creed in order to concretise the fundamental issues in the struggle for India's freedom and it has also been declared unequivocally as the most suitable and the only method or procedure for the framing

of "New India's" constitution. Now a question arises how does the demand of the Constituent Assembly give our freedom movement a positive organisational task? In the case of any revolutionary insurrection such a demand is indeed perfectly natural and the very idea of revolutionary activity is to destroy the reverence for the fictitious sanctions and dictates of the established order. Underlying the idea of the Constituent Assembly are two basic and fundamental concepts: the unabridged sovereignty of the people and its extension through adult franchise over the entire adult population. From every freedom platform and through every struggle for freedom, the unifying cry of the Constituent Assembly is being raised and with the lapse of time it will multiply its volume. The people rather than the Congress units must capture sovereign power to the entire exclusion of Imperialism, spread it over the adult population and, then, they will express their first sovereign will through electing the Constituent Assembly. This assembly shall give the country a new system of laws, its constitution and the base of its governance and thus fill up in a positive way the vacuum created by the liquidation of the system prevailing under Imperialistic regime. So far, however, the Constituent Assembly is only an agitational slogan and it does the most important task of educating and concentrating peoples' agitation on a particular and specific point.

The war in Europe has put the British-imposed constitution to a supreme test. Great Britain dragged India into war without her consent, and she took such other measures which left nothing into the hands of the popular ministries in the Provincial Legislatures. A question arose. Was this constitution capable of giving expression to the urge of freedom, self-determination and democracy of the Indian people or was it not? The test failed when it was found that the Government of India Act, 1935, instead of expressing the popular will of the Indian people could only serve British interests and desires. The Indian people protested against being declared belligerent against aggression and Nazism when they themselves are under bondage. They asked the British Government to declare unequivocally their war aims and extend those very principles of democracy for the preservation of which she is in a state of war against Germany. But Great Britain refused to transfer any power to India and created obstacles in the way of her freedom movement instead. It is clear from the recent speech of Lord Zetland, which has been beautifully paraphrased by Mahatma Gandhi, that the relation which exists between Great Britain and India is that of a Nationalist and the Imperialist. There can never be a meeting ground between these two antithesis. The paraphrase runs thus :

“We mean to hold on to what we have. We



will let you have such freedom as we think is good for you. This war, that we are fighting, is to prevent the disruption of our Empire. We want your help, if you will give it on these terms. It is good for you and us. We will do without your help, if you will not give it. You are not the only party we have to deal with. There are many in India who recognise the benefits of British rule and pax Britannica. We propose to win the war with the help we can command from India through the loyal agencies. Their services we shall recognise by the grant of further reforms when the time comes. This is what we mean when we say we shall make the world safe for democracy. For we are the most democratic power in the world. Therefore, if we are safe so are those who are with us. Those, like India, who are under our tutelage will be initiated into the art of democracy in gradual stages so that their progress may be uninterrupted and they might not have to go through the travail we had to go through."

The constitution provided no remedy for this protest. The relationship between India and Britain which the Congress, even in the course of its resolution permitting office acceptance, had described it as that between the exploited and the exploiter. Two-thirds of the Indian provinces were therefore left with no alternative except bidding good-bye to their offices. Two months after the war, in October 1939, the rule of law ceased in these provinces



and British Governors assumed all powers to themselves. The British Government has thus wrecked with its own hands that part of the 1935 constitution which provides for a measure of responsible government and is now ruling with the help of the other part which provides for autocratic rule. The 1935 constitution lies wrecked. The Congress did what it had set out to do twenty-nine months ago when it accepted office. It had expressed its loyalty to the idea of Indian freedom by wrecking the straight-jacket constitution forcibly put on the unwilling people. What is to take its place? It is here that the Constituent Assembly has become an immediate reality. The Congress has declared it in most strong words that they would not come back to the offices again till the Constituent Assembly is convened. Although Constituent Assembly is still an agitational idea, yet it must be admitted that it has, nevertheless, become an immediate reality with the resignation of Congress ministries and with the boycott of Central Legislature by the Congress Party.

It may be clearly understood that not only must the 1935 constitution be wrecked but that British Power must be overcome in a struggle before the Constituent Assembly can be convened. The Constituent Assembly can function as the first expression of the sovereign and the popular will of the nation only after the overthrow of the sovereignty of British Parliament. Let it not be forgotten

that the underlying idea contained in the true conception of a Constituent Assembly is that it is free from outside interference and influence of any kind.

British rule has not yet ended. We are still in the fast clutches of British Imperialism. However that might appear to be in the immediate present, it must not be denied that indications are not wanting to show that British rule is rapidly disintegrating and crumbling. Time is not far to seek when the British domination would totally be annihilated. We clearly see that every leaf torn off the calendar means greater strength to the nationalist forces and every day that passes brings us nearer to our cherished goal of complete independence.

It is possible to conceive of the Constituent Assembly under two circumstances: it can come after the end of this process of crippling the British rule or it can itself be the end. It is necessary to bear in mind the implications of these two different situations. In one case, the Constituent Assembly arrives after the overthrow of British Imperialism or after the attainment of complete independence through a fight either in the form of a revolution or civil disobedience. In another, the Constituent Assembly is the result of an acknowledgment by the British that they can no longer successfully rule over India, and thus grant complete independence to India. Either through generosity or in view of the rapid strengthening of the Indian

National Congress and the tremendous unsettling of men's minds and institutions that the war has caused, or lastly, in view of the fulfilment of their declarations that they shall apply the principles of democracy and self-determination when the proper time comes. In either case, the Constituent Assembly marks the beginning of a free India.

The Indian National Congress through its most accredited leader Mahatma Gandhi has conceived of the possibility of the Constituent Assembly being convened on the basis of goodwill, good-sense and change of hearts. In his famous article "The Only Way" Mahatmaji has clearly stated, "The Constituent Assembly if it comes into being as I hope it will, as a result of an honourable settlement between us and the British people, the combined wit of the best men of the two nations will produce an assembly that will reflect fairly, truly the best mind of India. Therefore the success of the experiment at the present stage of India's history depends upon the intention of the British statesmen to part with power without engaging India in a deadly unorganised rebellion." Further he has stated, "The principal hindrance is undoubtedly the British Government. If they can summon a Round Table Conference as they propose to do after the war they can surely summon a Constituent Assembly subject to safeguards to the satisfaction of minorities." It has been sought to argue by Comrade M. N. Roy among others, "That the Constituent

Assembly as demanded by the present leaders of the Congress would not lay the foundation of a completely independent India and it would not be a sovereign body to assert India's right of self-determination to the exclusion of all foreign interference, and by categorically repudiating the self-assumed authority of the British Parliament. The constitution framed by such a Constituent Assembly will obviously be the constitution of a self-governing India within British Empire, which may be rechristened as the Commonwealth of Nations." He has further added, "Whatever may be the different composition, so long as it will make room for any body other than the representatives of the people of India, it will not perform the function which a Constituent Assembly historically, politically and legally is required to perform."

We shall be unfair to Mr. M. N. Roy if we do not quote him from his article on "Constituent Assembly", dated 24th December, 1939 in which he has expounded his conception of the word "demand". He says, "The word 'demand' lends itself to some misunderstanding. It is generally understood that a demand is submitted to someone who may or may not grant it. The demand of the Constituent Assembly, however, is not of the nature which makes room for negotiations with another party. It is neither submitted nor even directed to Imperialism. It expresses the will of the Indian people and simply gives notice to

whomsoever may cross that will. In other words, it is a notice to Imperialism to liquidate. But no realist can expect Imperialism to be so obliging. The demand for Constituent Assembly implies the determination of the Indian people to assert its right of sovereignty. It is a challenge to the established State and its constitution. It is a declaration of war against British Imperialism, which must be waged uncompromisingly with all necessary means if the demand is to be enforced."

Our object is not to go into the merits or demerits of the two different conceptions of the Constituent Assembly. But before we proceed further, it should be clear that although the Constituent Assembly as conceived of by Mahatmaji shall be convened under the aegis of the British Government yet the basic idea governing the true conception of the Constituent Assembly that the British Government shall not have any kind of influence or interference in either the convention or the deliberations of the Constituent Assembly is there. Mahatmaji though has said times out of number that the British Government is unwilling to transfer power to India and in the course of a note too, while he examined the warning given by his co-worker on the eve of the Gandbi-Linlithgo talks that took place on 15th February, 1940, that the British Government "was playing only the old game this time too." He commented, "I should, therefore, repeat the performance every time the

Viceroy summons me, i.e., so long as I have faith in his sincerity. And every time I shall come out with greater strength than I go with. The method of *satyagrah* requires that the *satyagrahi* should never lose hope so long as there is the slightest ground left for it. For he never despairs of being able to evoke the best in his opponent, his mission being to convert the opponent, not to humiliate or defeat him." It is clear from the above note that Mahatmaji being a strong luminary and follower of truth and non-violence believes in changing the heart of the opponent to that of his own. It is also clear that as long as Mahatma Gandhi finds a ray of hope in converting and inducing the British Government to fulfil the demand made by the Indian people, he will even knock at the door of Great Britain and no sooner that ray of hope disappears, no one knows, what course shall be adopted. Only time will tell. Further, it shall not be out of place if we quote from his article on "The National Demand for a Constituent Assembly" which Mr. Asaf Ali, now the Secretary of Central Assembly Congress Party, wrote somewhere in the last week of July 1934 wherein he has answered to the objection that the British Government may refuse to recognise the right of India to self-determination. He replied, "The British Government will be stultifying itself in the eyes of the entire world and will be setting at naught all constitutional precedents by adopting such an attitude and whatever



else they may or may not do, they cannot afford to fly in the face of the opinion of the world which in relation to them means the world of ever vigilant rival powers. They may hedge and they may try to hoodwink but they cannot afford to deny the principles on which civilised governments of the world are founded. One has only to look at the history of the constitutions of the various dominions of the British Commonwealth of Nations to be convinced that similar procedure has been followed before, and there is absolutely nothing unconstitutional in our demand for a Constituent Assembly. By attempting to prevent the consummation of so eminently constitutional a demand on behalf of the people of India, the British Government may temporarily gain a respite, but they cannot postpone the ultimate realisation of the will of the people for long." Remember that the above views were ventilated about five years ago. Now the times have undergone a radical change owing to the outbreak of war in Europe. Time has come when Britain will have to recognise and accept our demand which rests on the bed-rock of self-determination.

## II

### THREE STAGES

We may now conveniently pass on to examine the Constituent Assembly through its various stages and according to its chief characteristics. There



are broadly speaking three stages : elections, deliberations and outcome, and each of these stages carries with it some salient characteristics of the Constituent Assembly.

It is essential rather the right of every citizen to have his say in framing the constitution of his country. In order that the Constituent Assembly should produce a constitution indigenous to the country it should fully and truly represent the will of the people. Hence it is necessary that the Constituent Assembly must be elected on the basis of adult franchise. Every Indian must take part in the election of representatives to this assembly and thus determine by his opinion and desire the fundamental framework of the free Indian State. Restrictions of suffrage as they exist now, whether of property, tax or education, must be abolished. A nation that has fully realised and become conscious of the misery, distress and oppression of a country under bondage and determined to govern itself, cannot possibly rest its constitutional structure on a restricted and privileged class of educated people, property-owners and tax-payers. Mahatmaji in his famous article entitled " The Only Way " has said, " Illiteracy does not worry me. I would plump for unadulterated adult franchise for both men and women, i.e., I would put them all on the register of voters. It is open to them not to exercise it if they do not wish to." It is rather a pity that the President of the Muslim League has taken exception to

the unrestricted franchise which is the condition precedent to the election of the Constituent Assembly. Instead of extending the franchise of the Constituent Assembly over the adult population as a whole, the Muslim League President would like the nature of the Indian Government to be determined by a narrow class of educated and propertied people. In a rejoinder to Mahatma Gandhi's statement to the *News Chronicle* on the question of Constituent Assembly on December 4, 1939, in which he reaffirmed his belief that "India's opinion can only be ascertained by the free vote of her people. The only true and democratic method is to ascertain their will through adult suffrage or any agreed equivalent," Mr. Jinnah, now popularly called Qaide Azam Janab Jinnah Sahib, said, "Mr. Gandhi is neither concerned with the size of the country nor the illiteracy of the masses. A truly representative assembly presupposes that in order faithfully to express the judgment of the people it can only be constituted if you have a fully developed public opinion, on electorate educated and experienced, free from superstition and capable of judging the vital political issues affecting the country, and not, as India stands to-day, composed of castes, creeds, superstitions, provincial jealousies, quite apart from the main division of British India and Indian States. The assembly proposed by Mr. Gandhi would at best, therefore, be a packed body manoeuvred and managed by the Congress caucus." The reply to the

above comment is contained in the same statement of Gandhiji that "neither the size of the country nor the illiteracy of the masses should be a bar against adult suffrage. An election campaign will itself be a sufficient education for the purpose of broadly knowing the popular will." And once again Mahatma Gandhi has met with this objection in the *Harijan* of February 3, 1940. The following question was put to him :

" Your Constituent Assembly will be elected by a vast majority of illiterate and ignorant voters who would vote for one side or another because that side is led by persons who cry slogans palatable to them. In such circumstances would not the decision of the assembly be a farce, a tyranny of numbers? Why cannot you settle by a discussion in the press, or on the platform or in a private conference? " The answer given by Gandhiji was " There is risk always in every big experiment, but in my opinion it is the least in the proposed method. Underlying the proposal is the faith that the majority of candidates will be enlightened and selfless workers. In that case the elections will be concentrated to political education on a stupendous scale. There is no question of tyranny of numbers. There is undoubtedly the risk of ignorant voters betrayed into wrong choice. Nevertheless the decision will be the verdict of the people. Discussion in the press and the platform cannot replace the elective method. The decision of a private conference will represent

only those who compose it. What is wanted is not necessarily a wise but a representative decision. To-day many societies claim to speak in the name of the masses. When the Constituent Assembly comes into being, it will silence all voices and be the sole instrument voicing the opinion of the nation."

We cannot ignore the political advantage to the country as a whole of adult suffrage over restricted franchise in the election of the Constituent Assembly. The Constituent Assembly is to lay down the foundation-stone on which the whole constitutional structure of the country is to be built. If this framework and foundation-stone is to be durable, strong and secure, it must rest upon the desires and aspirations and urges of the mass of people. Again, while opposing the idea of Constituent Assembly in an interview to the Lahore Journalists on the 16th December, 1939, Sir Sikandar Hyat Khan expressed the view that any Constituent Assembly to be nearly representative must have representatives elected on wide franchise and must consist of at least 3,500 representatives, one lakh of people being represented by one representative. Such an assembly in his view, while costing the people heavily, would not be able to achieve the desired result.

Pandit Jawahar Lal, while vehemently criticising the suggestion of an *ad hoc* committee to evolve a constitution for India as made by Sir Sikandar, said, "I am quite convinced that some time or the

other India's constitution will have to be framed by a Constituent Assembly elected on a very broad franchise. There is no other way, democratically speaking. Of course, when a Constituent Assembly meets it is bound to elect a small committee to formulate proposals." So the fear of mechanical difficulties in the way of Sir Sikandar's proposal vanishes. Who can tell if the aspirations to social justice and good government that nestle in the heart of a poor peasant and a poverty-stricken worker are not superior to the twisted desires of a considerable number of propertied and educated people? The individual voter is not to be worried of details but he is to express his opinion on such broad questions as the relation between the individual and the State, the fundamental laws that should govern the activities of the government and the manner in which the will of the people should be continually expressed on these questions. The poor masses, who have borne most the sufferings of a mismanaged economy and government and who are thus able to appreciate far more the values of social justice and an orderly government, will be very competent voters to the Constituent Assembly. A Constituent Assembly, elected on widest possible franchise, will reflect mass interest rather than the individual or vested interests. Mass interests are fundamentally economic interests and hence illiteracy or poverty should not be a bar against the broad franchise.

The basis of adult suffrage in the elections of

the Constituent Assembly must, therefore, be recognised as the main and the fundamental characteristic of the Constituent Assembly. The extension of Indian sovereignty over the entire people is the only form of government which in these days of democracy seems to be the best and just for free India. Monarchical government cannot be entertained as it does not suit the Indian aspirations of to-day. Neither a dictatorial form of government is suitable, nor are there any worth-while pretenders to the throne, whom the Indian people might fight. The democratic republic is, therefore, the only form of government which may give shape to the urges of freedom and justice of the mass of Indian people.

As the Constituent Assembly marks the beginning of free India, it is necessary that all sections of the people should be fully conscious of the issues they are voting for. There are certain sections of our people, though not so significant, who can be led away by communal and other elements into voting on the basis of prejudices and clouded issues. It shall be the imperative duty of the Congress to make special approach to these sections and make clear the basic political and economic issues involved in the building up of the Indian State. A campaign of civil disobedience preceding the Constituent Assembly might exercise some pressure in that direction and clip the capacity for mischief of communal elements. So the Congress



will have to take great pains in explaining and educating the people on the broad and fundamental ideas on which the constitutional structure of the free Indian State is to be built. Congress must wield its influence during the elections. She must gain and win the confidence of the people. She must show a right path to the electorate. It is probable that an illegal interference may be caused by either the government officials or by vested interests in the election of the Constituent Assembly. This question may not arise because the Constituent Assembly is to arrive after the successful overthrow of the British power in a civil disobedience campaign. Even then some non-official control of the elections would appear to be necessary. Therefore, vigilance and tactfulness on the part of Congressmen shall be essential to stop all attempts to interfere in the verdict of the people. Hard days are coming for the Congress. It must work hard during the elections. It should not be lethargic.

After the elections have taken place, the representatives now sit for deliberations. The most important thing to be remembered at the very outset is that their scope and reach cannot in any way be limited or circumscribed. There is nothing which cannot be handled or discussed by the Constituent Assembly. There is no sphere of political, social, economic or spiritual activity over which the Constituent Assembly may not feel itself competent to express its opinion and about



which it may not lay down the organic laws. In view of the peculiar position that exists in our country, it is necessary to state unsparingly those organic laws which pertain to foreign affairs, defence, British interests and the princes. All these must be included under the scope of the sovereignty of the Constituent Assembly. The Constituent Assembly should not allow itself to be tied down by any restrictions in regard to these affairs. There may be difficulties, but these difficulties will dwindle away when Great Britain leaves its hold on India. With the cessation of her dominance the difficulties will be solved because all these affairs are their own creation and they have been created as a camouflage to their unwillingness to withdraw their Imperialistic hold on India. Gandhiji in his most famous article entitled "Is It War?" has beautifully warned the British Government to remove from our way the obstacles they have created if they are earnest and sincere about giving India the right to govern themselves. We must quote the first paragraph of his article :

"The builders of the British Indian Empire have patiently built its four pillars—the European interests, the army, the princes and the communal divisions. The last three were to subserve the first. It is clear to the realist that the builders have to remove the four pillars before they can claim to have given up the Empire or the Empire spirit. But they say to the nationalists or the destroyers

of the Empire spirit, 'You have to deal with all the four pillars yourselves, before we can treat India as an independent nation instead of being our dependency.' They say in other words, 'Guarantee the European interests, make your own army, treat with the princes and with the communalists, otherwise known as minorities.' The destroyers retort, 'You imposed the European interests on us, for their defence you built an army and kept it a close preserve; you saw that you could use the then existing princes for your own purposes, you made them and unmade them, you created new ones, you armed them with powers they could not enjoy before with safety, in fact you partitioned India so that it could never rise against you in one mass. You saw again that we were cursed with the caste spirit, you took advantage of our weakness and defined it till at last claims are made which, if they were satisfied there would be no single Indian nation and no independence. And to all this the fact that by your policy of disarmament you have emasculated a whole nation. But we do not blame you for the past. On the contrary, we admire your bravery, skill and spirit of adventure. You have copied other Empire-builders who preceded you. You have improved upon them in a variety of ways. But if you profess, as you have professed, that you have decided to give India her due, then you have to remove from our way the obstacles you have created. You are entitled to ask us to recognise the difficulties in the

way of your making delivery and even to help you. If you are honest, you will leave us to do the best. You must trust our sense of justice, not your strong arm, to make us do what is right and proper. Hitherto you have determined our fate for us. Now if you are earnest, you will not only let us determine the method and manner of governing ourselves but even help us to do so, if we want your help.' "

As regards foreign affairs and relations with Great Britain, it must be borne in mind that nations and countries, rather the people speaking through their accredited representatives in the Constituent Assembly never want to modify, abolish or change a constitution, or seek to break off friendly or cordial relations with other states and peoples, unless such relations hamper and retard their self-development and progress. They can be roused by impulses of the moment to disregard or ignore consequences, if immediate prospects look gloomy, but goodwill is always answered by goodwill and good sense never deserts people in the presence of goodwill. Self-interest is too powerful a check upon rash decision, but self-interest, at the cost of others, is a sure precursor of evil happenings. Should the Constituent Assembly arrive after the successful overthrow of the British hold, it need hardly be stated that the right as well as the duty of the Constituent Assembly will be to lay down the basic framework in regard to foreign relations, financial affairs and defence matters of free India. Similarly the Constituent

Assembly, that arises out of a voluntary recognition by Britain as an independent country, must also have the right and the duty to legislate on these topics. The British Parliament cannot have any veto power over the decisions arrived at in the Constituent Assembly. The province of the sovereignty of the Constituent Assembly must be undisputed, supreme and unrestricted. The sovereignty of the Constituent Assembly in all aspects must be supreme and unalienated.

The representatives of the Constituent Assembly shall elect their own chairman or chairwoman, whatever the case may be, and all other dignitaries of the various committees or sub-committees. The Viceroy of India, for instance, or any other representative of the British Government, may not be permitted to preside over the deliberations of the Constituent Assembly or any of its committees. No scope should be given to interested elements or intriguers to play off one group against another within the walls of the Constituent Assembly and thus to tamper with the foundation and beginning of the free Indian State. It is extremely essential that an atmosphere of goodwill, good sense, mutual understandings and cordial relations must prevail throughout the period of deliberations. Their hearts must be pure of bitterness, rancour, jealousies and ill-feelings. The spirit of party triumphs or quarrelling over petty things should not find place in their hearts. There must be a spirit of

tolerance.

After the conclusion of the deliberations arrives the stage when the constitution prepared by the Constituent Assembly is to become the organic law of the State. There is no superior authority whose assent or sanction may be necessary. There cannot be any supreme authority who may be vested with the power of vetoing what has been decided by the Constituent Assembly as is the case now in Provincial or Central Legislatures. In the event of the British power having already fallen, there will be no authority in fact which can prevent the constitution prepared by the Constituent Assembly from becoming the organic law of the State. Should the British power be there and create obstacles in the way of its becoming a law, the Constituent Assembly can be made the starting point of a civil disobedience or any other sort of revolution of unforeseen and untowered dimensions. Behind the constitution shall be the will of the people that has fought and striven hard for its freedom. The British power will have to yield before the mass of the national forces which would have grown very strong by that time. The British Government, in order to be called generous or benefactor of humanity, may ratify it in the Parliament. In any case, as soon as the Constituent Assembly has framed a constitution for free India, there is no power on earth which can prevent it from becoming an organic law. The Britishers may overcome us by force of arms but it

will not be long before we succeed in our non-violent fight in throwing overboard these so-called "gilded chains" of British Imperialism.

It shall be worth while to attempt the problems which will come within the purview of the Constituent Assembly. It shall be the main task of the Constituent Assembly to erect the mechanism of government through which the people may express its opinions and administer itself. The assembly may, for instance, decide to have two legislative bodies in the federal sphere, one a senate composed of a small number of representatives from each of the units of the federation and another a house of representatives consisting of a larger number of representatives from the country as a whole. It may decide to have a President of the Indian Republic with a host of ministers. Similarly, the Constituent Assembly will also describe the manner in which the executive, legislative and judicial functions are to be performed in the provinces or the units of the federation. Whatever form of legislatures, executives and judiciaries it may decide upon, it will be the task of the Constituent Assembly to adjust one to the other, to demarcate their functions and define their proper spheres.

The Constituent Assembly will also lay down the organic law in regard to the country's economy. It may incorporate the fundamental rights of Karachi Congress and establish social ownership and control over key industries and thus make impossible the



acquisition of private profits out of such industries and mining as electricity, transport and coal.

To visualize what the Constituent Assembly will do to emancipate the Indian people from the grinding poverty in which the millions are born, live and die, we must keep in mind the proper context of the situation in a country where the revolution has triumphed. The people shall have captured all the organs of economic life, railways, banks and ports. The police stations, military outposts and the entire governmental administration shall cease to be the instrument of oppression and the will of the people shall reign supreme. What a Constituent Assembly cannot do in these conditions, we do not know. There shall be no vested interests or the inter-imperial considerations. No feudal class shall be bolstered up to be a cat's paw in the nefarious game of thwarting the march of the masses towards a fuller, richer and nobler life. The Constituent Assembly may set up a democratic republic, or a Soviet may be established. The central fact is that there should be no obligations other than, of course, the interests of the people, that shall be taken into consideration. It shall outline the relation that is to exist between the individual and the State in free India and will thus enumerate the fundamental rights of the citizen. In addition to the usual freedom of speech and association and religious worship, the assembly may make it obligatory on the Indian State to provide



work and education to its people.

The Constituent Assembly may, moreover, make peace the basis of foreign relations of free India and pass such laws which may require India to co-operate in all international endeavours for the promotion of everlasting peace through the policy of disarmament and non-violent intercourse among nations.

# CONSTITUENT ASSEMBLY

## CHAPTER III

### ITS ROLE IN HISTORY

It has already been emphasized that the salient feature of a Constituent Assembly is that it lays down the legal foundation of a new State. The Constituent Assembly therefore symbolises firstly, a successful revolt—violent or non-violent—against an established State ; secondly, it implies the existence of a state of political and national consciousness which enables the liberated peoples to exercise sovereign rights of all free nations. Historically the conception of a Constituent Assembly has a definite political content. Even etymologically it is evident that an assembly which meets with the purpose of constituting a new State is called a Constituent Assembly.

The slogan for the Constituent Assembly has been raised at a most psychological moment in the struggle for freedom in this country. To popularise this slogan and to make it the rallying point of our struggle is the duty of all the anti-Imperialists. But to guard ourselves against any possible vulgarisation of this essentially revolutionary slogan it is necessary

to see what has been the role of the ideal of Constituent Assembly in the history of other countries.

The ideal of a Constituent Assembly has played a twofold role in human affairs. This ideal of Constituent Assembly has, firstly, given a concrete expression to the basic principles of national independence or freedom or liberty. The terms "Independence" and "National Freedom" themselves seem vague and ambiguous when seen in the proper context of class struggles in backward countries. But despite their vagueness and ambiguity, they represented an inexplicable but ever haunting urge in the human breast, i.e., to be the master of one's fate and captain of one's destiny. The Constituent Assembly is, therefore, one step further to concretise the fundamental issues involved in a struggle. "Independence" may be defined as "non-intervention of others" and freedom may stand for absence of restraint, but the Constituent Assembly is something positive. It asserts the right of a people to life, liberty and pursuit of happiness. Like all positive ideals the Constituent Assembly has served to move millions. The Constituent Assembly has been almost an article of faith in the revolutionary times in all countries.

Secondly, the Constituent Assembly has been the machinery and the medium through which the liberated peoples lay down the political and economic structure of their national life. It is through

Constituent Assembly elected on the widest possible franchise that the people choose to exercise their right of self-determination. In a democratic revolution it is only through such an organ that the state of the people can find a juristic and a legal personality.

The history of Constituent Assembly is the history of great revolutions. The Constituent Assembly can perform its twofold role only in a successful revolution, for it requires the tremendous force of the people to ring out the old and to ring in the new. Every age creates an ideal in its own image, and as happens in a revolution, it ruthlessly sacrifices at its altar all those who refuse to worship it, and what, but the indomitable will of an awakened people can accomplish that—that is why, perhaps, Trotsky defines a revolution as “forcible entrance of the masses into the realm of rulership over their own destiny”.

“The most indubitable feature,” writes Trotsky, “of a revolution is the direct interference of the masses in the historic events. In ordinary times, the State, be it monarchical or democratic, elevates itself above the nation and history is made by specialists in that line of business—kings, ministers, bureaucrats, parliamentarians and journalists. But at those critical moments when the old order becomes no longer endurable to the masses they break over the barriers excluding them from the political arena, sweep aside their traditional repre-

sentatives and erect by their own interference the groundwork of a new regime....." (History of the Russian Revolution, vol. I.)

Mere oppositional criticism would not create a revolution. Such oppositional criticism as does not question the basic principles of a given situation is rather a safety valve, a condition of stability of a given social structure. To create an insurrectionary mood, entirely different conditions are needed. The slogan of Constituent Assembly as a visible and concrete expression of the achievement of national sovereignty held up against a state of abject degradation and humiliation of self-respecting people can go far to create such an insurrectionary mood and inspire the willing sacrifices of hundreds of patriots. In the case of revolutionary insurrections a demand on the part of a nation for a Constituent Assembly is perfectly natural. It denies in the first place the *locus standi* of the established State, and it affirms the people's will to forge democratic sanctions for the moral and legal institutions of the new order. In almost all the important revolutions in the history of mankind the demand for a Constituent Assembly has been raised and successfully fought out.

A revolution, it cannot be emphasized too often, is primarily and essentially a forcible entry of the masses into the rulership over their destiny. A revolution, while it implies the destruction of an old order, emphasizes the existence of powerful mass consciousness. A revolution, therefore, is not

synonymous for a kingly *coup d'etat* nor for a reshuffling of a cabinet.

A revolution, again, is not a sporadic outburst of mob-violence. It connotes a distinct ideology and it has a philosophy of its own. The ideology of a revolution cannot be spun out overnight nor its philosophy can be manufactured to order in a cynic's garret. For ages and ages the people brood over their misery and grope in the dark. For a time the people may become other-worldly, like the Tolstoyan Utopians or a group of fervent Nihilists, and may deny all social and ethical values or an enthusiastic band of anarchists may seek to blow up the State while an over-busy group of intellectuals builds card towers of babel to scale the skies with—out of all this interminable wilderness of currents and cross-currents rises the revolutionary ideology which moves the millions on and scales the citadels of power.

The historic origin of the Constituent Assembly is to be found in those great movements which drove some of the people of Europe to organise themselves in order to destroy arbitrary power. Popular resistance to kings yielded the great idea that the fundamental laws of a country can be determined only by its people. To the idea we owe many of the revolutions of the last two centuries and a half. To it we owe the principle of self-determination and the conception of a Constituent Assembly and written constitutions. It



has been a favourite pastime with the philosophers to speculate upon the nature of relations between man and his fellow beings, *i.e.*, between the liberty of the individual and the sovereignty of the State. Epicurus, Aristotle and Plato and innumerable theologians in the mediaeval times meditated upon what was called the "Social Contract". It was in the seventeenth and eighteenth centuries in consequence of the religious and civil upheavals by which the political institutions of Europe were moulded anew that the theory of social contract obtained its greatest prominence. Thinkers like Montesquieu searched for the sources of popular sovereignty and in the *T'espirit de lois* it was discovered that the *loi fondamentale* was the only solution of the difficulty. John Locke (1632—1704), the famous author of the Two Treatises on Civil Government, was the forerunner of the modern democracy.

"God made all men equal.

Ideas of earthly superiority are educational  
not innate

Kings were made for the good of the people  
and not the people for them.

Though most governments are *de facto* arbitrary and consequently the curse and scandal of human nature. Yet none are *de jure* arbitrary." (James Ottis, 1764.)

These revolutionary ideas from the pen of James Ottis were getting popular in the discontented

American colonies.

We can afford to make but a brief reference to the encyclopædists and the physiocrats of pre-revolution France. The glory of the encyclopædists lay in their hatred of things unjust, in their denunciation of the trade in slaves, of the iniquities of taxation, of the corruption of justice, of the wastefulness of the wars in their dreams of social progress. The physiocrats led by morally denounced private property. Last, but not least, came J. J. Rousseau (1712—1778), the father of the French Revolution. He was a curious mingling of logical rigidity and sentimental enthusiasm. He preached the alluring doctrine that the primitive state of man was of the virtue and happiness from which he had declined through the rather inexplicable activities of priests, kings, lawyers and others. He believed and preached that government was originally created by voluntary contract and sovereignty resides only in the people and that law is the expression of public will.

It was in 1649 that the Puritans of England rose in revolt against the Divine Right of Kings. "We are fully agreed and resolved, God willing," said the great Protector, "to provide that hereafter our representatives be neither left to an uncertainty for times.....nor made useless to the ends for which they are ended....." In every government there must be somewhat fundamental, somewhat like a Magna Charta that should be standing unalterable.

Four years later Cromwell and his officers met in a Constituent Assembly and drafted what was called the Instrument of Government, one of the earliest written constitutions.

Modern democracy is said to have been heralded by the War of American Independence. The thirteen colonies were intensely discontented over the colonial policy of King George III. The colonists denied the right of the British Parliament to levy any taxes on the colonies or to legislate for them. Since the British Government would not accede to their demands, they raised the slogans of "no taxation without representation" and ultimately repudiated all authority of Britain. In 1776, the Congress at Philadelphia resolved "to adopt such government as shall in the opinion of the representatives of the people best conduce to the happiness and safety of their constituents in particular and America in general." On July 4, 1776, was issued the famous Declaration of American Independence written by Thomas Jafferson and Thomas Paine and others: the declaration emphasized that all men are equal and all men have equal rights to life, liberty and pursuit of happiness and all governments derive their authority from the consent of the governed and all men have right to alter or abolish a government which obstructs the rightful pursuit of happiness. On the basis of these fundamental principles the Constituent Assembly met in 1787 and drafted the written constitution of the United States of

America.

Disraeli is reported to have said on one occasion that there are only two events in history—the siege of Troy and the French Revolution. The Government of the Old Regime was an absolute monarchy—It was de Grand Monarque Louis XIV who said ‘*C’esteeetat*’—‘I am the State’. “We hold our Crown from God alone,” declared Louis XV, “and the right to make laws by which our subjects must be conducted and governed belongs to us alone, independently and unshared.” It was a rule of position, privilege and nepotism and *lettres de cachet*. The French nation had seen how the American colonists had won their independence. The French bourgeois also struck for power.

The King Louis XVI was compelled to convoke the *estates generale* because of the financial difficulties. The *estates generale* had not met since 1614. The 1200 deputies met in May 1787. The third estate, the commons, taking a leaf from the book of the English House of Commons, declared that it alone represented the nation and that no taxation must be levied henceforth without its consent. Whereupon they closed the hall and intimated that the deputies had better go home. Instead the deputies met in a convenient Tennis Court and took an Oath of the Tennis Court. They resolved:—

“The National Assembly considering that being called upon to settle the constitution of the kingdom to bring about the regime of public order and

to examine true principle of monarchy nothing can hinder it from continuing its declarations in whatever place it may be compelled to establish itself and that, in short, wherever its members may be collected together there is the National Assembly.

“Resolves that all members of the assembly take an oath never to separate and to meet whenever circumstances may require it—until the constitution of the kingdom be freely established on a solid rock and that the oath being taken by all of each one of the members confirm by their signatures this unalterable resolution.”

The King addressed the assembly and spoke of the royal favours but the nation demanded its rights. The assembly was prorogued. “Gentlemen,” said the Grand Master of Ceremonies, “you have heard the orders of the King.” Mirabeau replied, “We have heard, sir, the intentions that have been suggested by the King. But, as for you, who have neither a place nor a right to speak in this assembly it is not for you to repeat his address. Go and tell those who sent you that we are here by the will of the people and will not depart unless driven out by bayonets.”

That was how the grim drama of the French Revolution began and the Republican France threw in the words of Danton the head of a King to the Kings of Europe who challenged the French Republic. In 1789 the Constituent Assembly met. All sovereignty, it was declared

resides essentially in the nation. No body nor individual can exercise authority except such as emanating directly from the people. "To create a constitution," said Thouret, "is to regenerate the State." The practical shape to the idea of self-determination is given by the provision in the constitution that change in the fundamental law of the national should not be affected without the assent of the people. A nation's right thus to organise itself is called its constituent power and is exercisable only through the Constituent Assembly. "This constitutional power," said Reymond Poincare, "is the beginning and end and the very essence of sovereignty. A people which cannot thus organise itself is a people enslaved."

The year 1848 has been called the year of revolutions. The French nation overthrew the Orleans and the Constituent Assembly established the second Republic (1848—52).

The last war (1914—19) was fought to make the world safe for democracy. (That is at least what it was declared.) An intense wave of self-determination took Europe by storm after the war was over. President Wilson came down upon the war-worn Europe as a godsent Messiah. His famous fourteen points came like a gospel, like the hope of a better world to the whole Eastern hemisphere. Europe, when Wilson touched its shores, was as clay ready for the creative potter. Self-determination was the symbol of political enfranchisement. The Allies



invited all nationalities, small and large, old and new, to convene Constituent Assemblies. Even the Weimar Constitution of the German Republic (1919) was passed by a Constituent Assembly. The Czechoslovak people met in a Constituent Assembly and resolved, "We the Czechoslovak nation desire to consolidate the perfect unity of our people to establish the reign of justice in the Republic to ensure the peaceful development of our native Czechoslovak land have adopted following constitution for the Czechoslovak Republic. Here is an extract from the Estonian Constitution:—"The Estonian people with unshaken faith and resolute will to create a State based on justice, law and liberty for the defence and internal peace and as a pledge on the social progress and future generations has drawn up as accepted through the Constituent Assembly the Constitution."

We shall deliberately refrain from dilating upon the tremendous significance of the Bolshevik Revolution of 1917 as a political, economic and social convulsion. It far transcended the French Revolution and indeed every other revolution the world has witnessed. Like the French cataclysm it put an end to an old powerful monarchy, wiped out a privileged aristocracy, cancelled vast property rights and challenged an entire existing order of economy and thought. The social democratic revolution of February 1917 was essentially a successful culmination of the liberal slogan for a Constituent Assembly.

The Bolsheviks transformed the bourgeois revolution into the October Revolution by developing the forces of the proletariat under the slogan "all power to the Soviet". The Soviets were the organs of the toilers, intrinsically the proletarian revolution was a vindication of the demand for Constituent Assembly.

We have knowingly refrained from mentioning the Constituent Assemblies in the British Dominions. We are aware of the fact that analogy of the dominions' constitutional history is held out to console the liberal patriarchs and the constitution of a Westminster variety is promised to us as our reward. We should do nothing more than quote the following words from an interview granted by Eamonn de Valera to Dr. Zhender of *New Zeitung* of Zurich on May 3, 1921 (see Dorothy Macardle: "Irish Republic", p. 965):—

"Q.—If an offer of Dominion Home Rule as for Canada or New Zealand were to be put forward would the offer be absolutely rejected?

"A.—The fact that this question is asked so often shows how skilfully England has covered up the real issue by raising a false one. The essence of Dominion Home Rule as it exists in Canada and New Zealand is the fact that dominions are part of the British Empire of their own free will. The most conservative British statesmen have acknowledged the right of the British Dominions to secede should they choose to exercise it. It is obvious that

when England is ready to make to us an offer with this implication she will in fact be admitting our right to have the republic. Without the right to secede the British Dominions would not be what they are 'free partners of British Empire'. The test of their status is the right to secede. By denying us that right the British deny us that status.

*"Ireland, of course, has never been a free partner in the British Empire. She has been brought into it and kept in it entirely by force. We deny that there has been any real union with English and my use of the word "secede" is not to be regarded as an admission of anything of the kind. (Italics ours. Substitute "India" for Ireland.)*

"Q.—What guarantees could or would a free Ireland give to English concerning the so-called strategical and military security of the United Kingdom?

"A.—Whilst Ireland does not admit that English has any right to guarantees of that kind Ireland is quite willing to consider the question in the broadest spirit.....A threat to the independence of British from a foreign power might very well be regarded by Ireland as a threat to her own independence assuming she were free. A dependent Ireland on the other hand can know of no foe but one the present master that keeps her in slavery."

There has been no grim a struggle as the Irish fight for freedom. For four times during the period of hundred and twenty years the Irish people rose

in armed revolt against their oppressors. They built the great Sinn Fein as the weapon of their struggle. By the article No. 4 of its constitution (adopted in Dublin on 25th October, 1915) the Sinn Fein pledged itself to the creed of the Constituent Assembly.

“Whereas no law made without the authority and consent of the Irish people is or ever can be binding upon their conscience.

“Therefore in accordance with the resolution of the Sinn Fein adopted in convention 1905 a Constituent Assembly shall be convoked comprising persons chosen by the Irish constituencies as the supreme national authority to speak and act in the name of the Irish people and to devise and formulate measure for the welfare of the people of whole of Ireland.”

The proclamation of the Provisional Government of the Irish Republic issued in April 1916 had previously asserted the right of the people of Ireland to the ownership of Ireland and to the unfattered control of Irish destinies to be sovereign and indefeasible. This demand was endorsed by the election manifesto of the Irish Nationalists in the general elections of December 1918.

Seventy-nine out of one hundred and five members for Irish constituencies (in spite of repression and their imprisoned comrades) met at Dublin on 21st of January, 1919, as the Constituent Assembly of the Irish people. The constitutional history of

the British Empire presents almost the same spectacle of struggle. The British North American Act was based on the recommendations of the Quebec Conference of 1864. The delegates from Canada met the Secretary of State and his legal advisers. The National Australian Convention consisting of 45 delegates met at Sydney in March 1899 to frame a constitution on the basis of recommendations of which the Dominion of Australia Act was passed in 1900. The South African colonies had to pass through an ordeal of fire and blood before the four colonial parliaments could send their representatives to Dublin and get the Act in 1909.

The Statute of Westminster is quoted in support of the contention that the Dominion Status embodied therein satisfies in essence the national demand for political and economic freedom. The slogan for "complete independence" is sought to be dismissed because the Statute of Westminster implies the self-immolation of the British Rule.

Dominions were defined by the Imperial Conference of 1926. That definition is incorporated in the Statute of Westminster. It is "They (Great Britain and the Dominions) are autonomous countries within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs though unitedly a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations".

It is forgotten that the dominions mostly, if not all of them, did not exist in the civilised world before the English colonised them. The dominions are predominantly English and they are merely the outposts of the mother country. India was not colonised by Britain, she was conquered for economic exploitation. She has a history of her own and a civilisation and a culture to be proud of. It is also forgotten that the conditions of Imperialist rule have changed historically just as the ways and means to exploit economically a colonial country have changed. Imperialism is in its decay and wants to keep its economic sway over the colonial people even if it is forced to give political concessions to the native politicians. Large investments of surplus capital have created vested interests in the Indian railway services, banks, etc. The vested interests must be protected at all costs against the upsurge of a mass movement. Therefore political concessions have to be offered to the colonial ruling classes.

"Modern Empires," writes Mr. M. N. Roy, "are not conquered by invading armies. They are established through the peaceful and legitimate means of the export of capital". The right of secession granted by the Statute of Westminster is a legal fiction. By the offer of Dominion Status the economic foundation of Imperialism will not be in any way impaired. The constituent parts of the British Empire are held by the chains of gold radiating from



the Bank of England." Imperialism in the words of Mr. M. N. Roy is not a system of law. It was not established by law. Therefore, it cannot be liquidated by a statute.

# CONSTITUENT ASSEMBLY

## CHAPTER IV

### ITS CRITICS

We have not come across any really serious criticism of the Congress demand for a Constituent Assembly which has been dealt with at some length in the foregoing pages. The quarters from which criticism had been anticipated, however, have found their exponents in Sir Maurice Gwyer, the Chief Justice of India, Mr. M. A. Jinnah, the President of the All-India Muslim League, Sir Sikandar Hyat Khan, the Premier of the Punjab Government, Mr. Nalini Ranjan Sirkar, ex-Finance Minister of the Bengal Government and Mr. Pothan Joseph, editor of the *Hindustan Times*. The criticism of all the above critics, as we shall see presently, is almost of the same nature. Therefore we shall mention all their points of criticism one by one and then try to dispose them of summarily.

In his convocation address to the Benares Hindu University, Sir Maurice Gwyer remarked that the Constituent Assemblies have not always had happy results and suggested that the future constitution of India should be hammered out by the influence of a

small number of individual men or groups of men. Again Mr. Pothan Joseph made two suggestions in his article entitled "A Catch Phrase in Politics,—Constituent Assembly" in the *Statesman* of November 29, 1939. Firstly, "a bargaining conference is the only alternative where numbers do not determine political strength." Secondly, "a concordat of parties is the next best way at an assembly of the differing groups that now exist; a conference of prominent political leaders without any million-wide voting by the adults of India." The reasons for his two alternatives will be clear when we quote him from his article. In the beginning he apprehended that Britain could not be kept out and that the Constituent Assembly could not be convened because a Constituent Assembly could be summoned after a triumphant upheaval. He said :

"A Constituent Assembly is generally called by revolutionary organisation at a time of triumphant upheaval. It is summoned on the promise that there is no superior authority to re-examine a decision or to veto it, since sovereignty has been wrested. If Britain recognizes the right of a Constituent Assembly in India, she renounces her claim to have her say in the matter. What is decided upon in a Constituent Assembly should be accepted as the foundational law. The usual custom as seen in the story of revolutions is to oust the possibility of a superior veto by leaders themselves acting in the name of the people, and then to

formulate the terms of sovereignty already recognised as complete and inherent in the nation represented at the conference in order to formulate a plan of government. Lord Zetland demurs to the plea that Britain should be kept out of it.

“When we talk of a Constituent Assembly the preliminary hypothesis is absent, but assuming that there is a divestment of responsibility by Parliament, we should appreciate the nature of the next stage to be reached. The simple Western design would be to have territorial representation at the conference presupposed as necessary, but territorial patriotism in India is overwhelmed by communal sentiment. We think in terms of religious affinities and there are seven separate religions in India, the most prominent being Islam after Hinduism.”

And again he suspected the utility of the Constituent Assembly in solving the minority or the communal problem. He proceeded :

“The situation to-day is such that an electoral merger cannot, as a cast-iron certainty, safeguard the interests of leadership. A Constituent Assembly on the basis of adult franchise would mean the counting of heads, and adult franchise is predicated in the Congress scheme. How it can be organised on an elective basis in a country of 400 millions is too stupendous a problem for practical minds, but assuming the production at the conference table of one delegate to represent a million there would be about 250 spokesmen as Hindus, 90 as Moslems,

6 as Indian Christians and the rest in different proportions.

"A Constituent Assembly on adult franchise so composed would imply voting according to representative numbers, and a majority vote would mean the overwhelming of the rest. Democracy is democracy, the counting of heads, but since the electorate is of heterogeneous composition, the separate blocs take shape according to communal numbers. If instead of the whole of British India, the principle of a Constituent Assembly is applied for the settlement of a single province, how would it suit the Hindus? Actually, Dr. Gopi Chand Bhargava told the Punjab Assembly on November 14, that since there had been a breakdown in the Congress-League talks, they should seek a minorities' settlement in the Punjab alone. All-India Hindus would demur to it."

Further he opined that "As long as religion overshadows and overawes us, we cannot usefully argue on the basis of the Economic Man."

Sir Sikandar Hyat Khan also suspected the utility of a Constituent Assembly in solving the communal or minority problem and the question of Indian States. As a solution to the difficulties envisaged by him, he suggested:

"If the real object is to compose communal differences and to reconcile the just claims of the majority and the minorities in the future constitution of India, it would be more profitable to entrust

this task to a few prominent and recognised leaders of the people. Provided there is a genuine desire among the leaders to grapple with and solve these problems—as I believe there is—it should be possible to limit the size of this informal conference to about a dozen leaders. There would, of course, be no question of counting of heads in this conference as this select body of distinguished leaders would be required to find an agreed solution of the various political and communal problems. With mutual goodwill and confidence, it should not be difficult for them to formulate agreed proposals which would meet with the approval of their countrymen. These proposals could then be submitted to the Provincial Legislatures for ratification.

“In order to ensure that the minorities in the Provincial Legislatures would have real and effective voice in the ratification of the agreed solution, it might be laid down that the ratification would not be effective unless two-thirds, or perhaps even three-fourths of the members in each legislature endorse it. If to our misfortune even those selected accredited leaders do not succeed in finding out an agreed solution of our difficulties and problems, then, I am afraid, it would be futile to expect that a Constituent Assembly of 3,500 people, elected on communal ticket, would ever be able to find a remedy for our chronic ills and troubles.”

Lastly we come to the baseless objection raised



by Mr. M. A. Jinnah who has already been declared to have reached the rock bottom of anti-nationalist tendencies and aspirations. Besides his most reactionary pronouncements that India consists of two distinct and separate nations and therefore democracy is unsuited to India, he, too, like already mentioned critics, opposes the idea of the Constituent Assembly on the plea that the Hindu majority in the Constituent Assembly shall rule over the minorities and that the latter shall be at the mercy of the Hindus who will naturally be in a majority.

Before we proceed further to meet the critics let us also refer to the suggestion made by Mr. Sirkar as an alternative to the Constituent Assembly. During his speech on the resolution of war in the Bengal Council on the 13th December, 1939, he said that the calm deliberations that were necessary for the framing of a constitution would not, perhaps, be easy to achieve in a Constituent Assembly. Therefore, what he suggested was an *ad-hoc* body composed of members selected by Provincial Legislatures on the basis of proportional representation. This body would take up for settlement with the British Government all problems relating to Army and Navy, the Services and Public Debts, etc., of this country. The *ad-hoc* body would also attempt to bring about an agreement between the major communities, political parties and other important interests for the purpose of framing an agreed constitution. Failing, however, such an

agreement, it would draft a constitution representing the greatest common measure of agreement providing in all cases sufficient and effective safeguards for the protection of the fundamental rights of recognised minorities. This constitution should then be ratified by a National Convention of all the members of the Provincial Legislatures.

Now we shall try to prove that the above alternative schemes of the critics are fantastic, unnecessary and unworkable. The above schemes try to emphasize that the foundational law of the State should be determined either by a group of persons or individual men or representatives of different communities. All these go to testify that the sponsors of these schemes want that British Imperialism must guide and control our destinies. They do not want to eliminate the British sovereignty over our affairs. Hence their schemes are most reactionary and anti-national and pro-Imperialist. Moreover the fact that the Muslim League or certain other minority leaders have objected to the demand of Constituent Assembly means that they are afraid of the masses and they want to keep the control of the respective groups in the hands of the upper classes. Already there is a revolt visible among various minorities against these reactionaries, and sometimes feudal or upper class leadership, which does not allow the masses to function.

The Indian National Congress true to the

aspirations of the masses has rejected all these schemes. What she wants is complete and unadulterated independence. She would never accept anything less than complete independence. Her goal is *purna swaraj* as declared in 1929 at the Lahore Congress. The demand for convening a Constituent Assembly simply implements the Lahore resolution and serves as a signpost to the road by which the goal of *purna swaraj* can be achieved. What she wants is that the future constitutional structure of free India should be determined not by a handful of people but by the general adult mass of the Indian people. And Constituent Assembly is the only way for determining that popular will. We have already discussed the desirability of the adult suffrage during our discussion in connection with the election of the Constituent Assembly. It is tragic that religion has been dragged into politics and that a purely political question has been clothed in a communal attire. It has been said by the Muslim League that the rights and privileges of the Muslims and other minorities are not safe in the Constituent Assembly. British Imperialism has taken advantage of this situation and has asked us to solve this problem as well as of the princes before India can be fit for complete independence. Our answer has been the demand for a Constituent Assembly as we strongly feel that the Constituent Assembly is the only panacea for all the ills regarding the question of princes and of the

minority problem. Let us now discuss in some detail the question of minorities and the princes, and show how Constituent Assembly alone can solve these problems.

# CONSTITUENT ASSEMBLY

## CHAPTER V

### SOME ALLEGED DIFFICULTIES

Here is an extract from the resolution on the Indian Demand passed by the Working Committee of the Indian National Congress in the last week of November 1939.

“The committee wish to declare again that recognition of India's independence and the right of her people to frame their constitution through a Constituent Assembly is essential in order to remove the taint of Imperialism from Britain's policy and to enable the Congress to consider further co-operation. They hold that the Constituent Assembly is the only democratic method of determining the constitution of a free country and no one who believes in democracy and freedom can possibly take exception to it. The Working Committee believes too that the Constituent Assembly alone is the adequate instrument for solving communal and other difficulties. This assembly can frame a constitution in which the rights of accepted minorities would be protected to their satisfaction and in the event of some matters relating to

minority rights not being mutually agreed to, they can be referred to arbitration. The Constituent Assembly should be elected on the basis of adult suffrage, the existing separate electorates being retained for such minorities as desire them.....”

The following points may be stated to bring out the salient features of the Constituent Assembly as visualized by the Congress :—

(1) A duly constituted electorate should send members on the basis of adult franchise (or the nearest approach to it) to the Constituent Assembly and that these should be charged with the duty and entrusted with the power to frame a final draft so that no party organisations or individuals at large may thereafter raise any objection or propose modifications. In view of this clear statement, it is a grave misconception to state that the Congress wants the Constituent Assembly to be an enlarged edition of the A.I.C.C. The Congress, for that matter, every political party will be entitled to approach the voters. And there is nothing unfair in this.

(2) The mass of the people by adult suffrage elect their representatives, all the principal minorities are represented (by the system of separate electorates if they so choose) and have a voice in the shaping of India's future.

(3) In regard to their particular problems it may be said that a minority's right might be overridden by a majority's vote. That has been got over



by the suggestion that such rights should be settled by agreements. The Congress leaders are favourable to the point that all such *bona-fide* matters as deeply affect the cultural and religious practices of a minority shall be decided by its own representatives by a three-fourth majority. If there is no agreement about a specific issue then the only proper course is to refer it to an independent arbitration such as the League of Nations or the Court of International Justice at the Hague. In this way, the possibility of a conflict between the special interests and rights of a majority and minority is avoided, and it shall not be possible for the minority to exercise a permanent veto on the rights and interests of the majorities.

(4) The slogan for Constituent Assembly is based obviously on the fundamental principles of self-determination. The basic principles governing any consideration of an aspect of the Constituent Assembly shall, therefore, be our right to freedom and essential unity of the people of India.

(5) The demand for Constituent Assembly has been put forward by the Indian National Congress, the great institution which has during the last fifty years sought to represent the Indian aspirations for freedom. The Congress has from time to time declared that it seeks all protection for the minorities. There are four great difficulties. These four difficulties might be rolled into one, i.e., the foreign rule. "The builders of British Indian Empire have

patiently built its four pillars, the European interests, the army, the princes and the communal divisions." (Gandhiji's statement in *Harijan*) These four difficulties are the principal obstacles, and in spite of the burning desire of Imperialism to liquidate itself (or it has liquidated itself already as Mr. Chamberlain proclaimed the other day) Britain cannot shed her responsibilities towards India and *pax Britannica* shall rule in India for India's own good.

The demand for the Constituent Assembly shall be realised only when the country has forged sanctions to enforce the National Demand. The Constituent Assembly may come as a result of honourable settlement with Britain, as Gandhiji hopes, or a tremendous struggle is to precede it as Mr. M. N. Roy says. The central fact that the people of India should achieve full sovereignty to decide the political structure of the future Indian Republic and that British Parliament shall have no *locus standi* to frame a constitution for us, is of supreme importance whether the power is transferred to us or we capture it. The British politicians cannot fling the difficulties of the European interests, the army, the princes and the so-called communal question in our face. It is essentially to solve these very difficulties that Constituent Assembly will meet. To deny India's right to self-determination because of the colonial exploitation of India—which has been euphemistically called

“European interests ” is to say “ We mean to hold on to what we have. We will let you have such freedom as we think is good for you.” (Gandhiji’s statement.) It is to declare war upon the Indian nationalists. “European interests” are British interests. The problem of British interests is solved as soon as British Government recognises our right to Constituent Assembly.

“As regards the states,” said Shri Rajagopalachariar in an important speech on 15th November, 1939, at Madras, “it is a mistake to imagine that they are on a par with the minority community. The states to-day are governments and not people for the governments of those states are unrelated to the people. They should be dealt with on better footing than as an unrepresentative provincial government. They cannot claim the status of minorities and demand an agreement basis. They should be taken as represented by what is called the paramount power which is protecting them and which is the same as the British Government. If the people of the states take the place of the rulers the position may be different...” One wonders if the people could take the place of the rulers under the present conditions, therefore the problem of the princes is essentially the problem of the British Government. The Constituent Assembly should be the only organ of the people’s will to solve this problem.

The communal bogey has been raised at a

psychological moment in the people's struggle for freedom. Mr. Mohammad Ali Jinnah, the doyen of the Indian communalists, has been the loudest in proclaiming his objections to the Constituent Assembly. We have also dealt with the objection of Mr. Jinnah in the foregoing pages. If consistency is the hobgoblin of small minds, then Mr. Jinnah is truly a great man. He seems to have as much tender a heart for the treaty obligations between the princes and the British Government (and what a specimen of democracy these tiny autocrats of Princely India are) as he is enthusiastic about the right to self-determination of what he calls the Muslim nation.

In a statement issued to the press on December 8, 1939, Mr. Jinnah tried to examine critically the proposal of the Constituent Assembly. While pointing out the complexities and the difficulties of the question, *viz.*, uneducated and ignorant masses, a great size of the country and diversity of the languages, Mr. Jinnah let slip certain words which showed that he was more anxious to protect the treaties between the princes and the British Government than to give democratic freedom to the people. He unnecessarily charged the Congressmen with "colossal ignorance to expect a foreign power that is dominating this country to sign its death warrant." The chief objection of his, however, was that Hindus and Muslims were two separate nations. "I have no illusions in the matter and

let me say again that India is not a nation nor a country. It is a sub-continent composed of nationalities. Hindus and Muslims being the two major nations." (Mr. Jinnah in a letter to Gandhiji; *Harijan*, February 3, 1940.)

It is needless to say that one wonders when one is confronted with his earlier utterances, utterances before his recent metamorphosis whether he has recanted his views or whether the confession of a new faith is a recent revelation. At least Mr. Jinnah has not denied categorically what he used to say when he was Mr. Jinnah of old. Shri Mahadeo Desai, in *Harijan* of 3rd February, 1940, quotes a reference in Shri Natesan's "Eminent Mussulmans" which describes him as a follower of Dadabhoy Naoroji, Gokhale, Surrendra Nath Banerji, and pages of that book are filled on his career as an ambassador of Hindu-Muslim unity. Here is an extract from his speech on the Indian Finance Bill in the Legislative Assembly in 1925. "I stand here with a clear conscience and I say that I am a nationalist first, a nationalist second and a nationalist last. Whether you are a Mussulman or Hindu, for God's sake, do not import the discussion of communal matters into this house and degrade this assembly....."

It is not the first time that an unholy attempt has been made to bolster up an utterly exploded theory which is based upon fabrication and distortion of history and misinterpretation of facts. But it

is regrettable nevertheless that this theory should have been raised up to check the progress of India at the present time.

The unity of India is unique in itself ; it is not a piece of delicate and exquisite tapestry in which every fabric must express harmony. It rather resembles one of the numerous streams which after emerging from the snow-clad gorges of Himalayas loses itself in the unexplored ravines. Absorbed into the masses of our communities and sections it flows through an obscure though a steady course whence it reappears and joins other streams into a mighty river and carries everything before it by the force of its movements.

Through ages and ages which lie behind us life of India has been enriched by contact with foreign people, so many races and hordes of wandering people have sought haven in her bosom that in the words of Pandit Jawahar Lal Nehru " like the ocean she received the tribute of a thousand rivers and though she was disturbed often enough and the storms raged over the surface of her waters, the sea continued to be the sea."

The question boils down to this. Is religion synonymous with citizenship ? Is it inconsistent to belong to the Indian nation and to be a true Muslim ? Is it not possible for masses to be organised on political lines according to their economic needs in spite of different faiths ? What has been the role of Islam in history ? Is the Turkish State a



secular state ? Are there no ties other than religious ones ? What about the cultural and lingual affinities between different communities ? Is not religion subject to forces of historical dynamics as other institutions ? There have been great nationalist movements in Egypt, Palestine and Syria. In Egypt there is a distinct revival of Pharoanic culture. The people, there, are no less Muslims than any other people professing the Islamic faith. There was the problem of minorities in Egypt too, but how that was solved is before the world.

In the name of Islam influential, but a handful of reactionaries are misleading the Muslim masses, leading it away from the national struggle into arms of British Imperialism. These so-called authorities on Islam allege that Islam by its very nature is opposed to nationalism, that it is international in content and form. But these people forget the fact that the spirit of Islam does not tolerate slavery and subordination.

The Congress has repeatedly declared that the legitimate rights and privileges of minorities, if any, shall be duly protected and safeguarded in the Constituent Assembly. But the Muslim League through its permanent President Mr. Jinnah has adopted the most anti-national and reactionary course by looking towards the British Government for its solution. As such, they cannot claim to call themselves to be the followers of freedom if they ask their exploiters to safeguard their rights. They have got every right for

safeguarding their rights but they should settle it with their own brothers, with their own countrymen and not ask the foreign power which has kept us in perpetual bondage to intervene in our affairs and confer the rights on them.

## CHAPTER VI

### OUR NATIONAL OBJECTIVE

Thus we have seen that the Constituent Assembly is the most practical, effective and just solution of the communal question or the minority problem or any other question that confronts this or that section of the Indian people. It finds a ready solution for the states too. Since the Constituent Assembly is expressive of the sovereignty of the adult population, the Indian States can participate only through popularly elected representatives. The princes as such or their nominees have no place in the Constituent Assembly. The Constituent Assembly has become the war cry of all the sections of Indian people. Whether it is the peasant with his anxiety for better living, just taxation and higher income or the worker with his desire for better wages, security of job and cultural existence or the student with his slogan of peace, freedom and progress or the middle class with its concern for extended State amenities, these sectional desires merge with the general desire of the people of India to be free. The converging point is the Constituent

Assembly.

This demand, though put forward by the Congress, is put forth on behalf of the whole nation and is good for Hindus as well as for Mussulmans, indeed for all who aspire for a life of self-respect and honour among the civilised peoples of the world. The British know very well the inescapable and unavoidable conclusion that this country must be governed by our own people and nobody else. There is no way but democracy for a tolerably good government to be maintained under modern conditions. So they must yield finally and leave us to ourselves. It was not later than 1918 that the late Edwin Montague, the author of the Montford Reforms, in the course of his 'foreword' to Sir Laurie Hammond's "The Indian Candidate and Returning Officer" admitted the fact that future foundational law of the free Indian State is to be determined by us. He said, "It is surely uncontroversial to predict that the ultimate and permanent form of government machinery must be devised by Indians in India and it will be designed to meet the particular characteristics and genius of the Indian people." Here is the central idea of a Constituent Assembly even though it may appear elusive to the British henchmen at this moment. Let us revert to the covenant of the League of Nations to which the 'British Empire' is as much an original signatory as India is. The first article of the covenant begins,—“The original members of the League shall be those of the

signatories which are named in the annex to this covenant, etc.," and India appears tenth in the alphabetical order in the annex. Again in the same article we find "any fully self-governing state, dominion or colony not named in the annex may become a member of the League, etc.," which definitely makes it clear that the original members are all presumed to be "fully self-governing". Thus analysed from the legal and constitutional point of view, British commitments preclude England and the British Empire from questioning India's right to be a fully self-governing State. Therefore India, as an original member of the League to-day, claims the right to determine or redetermine her own constitution, it is not open to Great Britain to deny her claim or question her right. It is sometimes said that India's membership of the League of Nations is an anomaly for she is not a self-governing country as contemplated by the constitution of the League. If it is an anomaly, India now proposes to set it right. And for this purpose a national constitution must be devised by Indians in India through a Constituent Assembly.

We have also seen that any other solution, for instance, of communal problem other than the Constituent Assembly, is neither practicable nor just. A compromise or settlement that is arrived at between heads of two or more organisations without reference to the people and without ascertaining how far these organisations represent the will of the people

can only be a patchwork truce. Such patchwork compromise will be difficult to arrive at, difficult to maintain and incapable of instilling awareness among the people of India of their real unity of interests and opinions in regard to political and economic affairs. In particular, organisations that have based themselves on communal instinct and have tended the function exclusively in the communal sphere have acquired a mentality that shows a great concern for imaginary grievances. They have practically no connection, whatsoever, with political and economic grievances that face the people. Besides this, India's defence, her minority problem, her division, etc., have been declared as obstacles to her being given a free hand in determining her constitution. There were the same problems with respect to the dominions which now enjoy virtual independence. In India too these can be solved as already expressed, through a Constituent Assembly after the successful overthrow of the British rule. Even now, as in 1918, the conscience of the British people has been roused and they see the justice of India's case. For Mr. Vernon Barlett wrote in the *News Chronicle* brushing aside all the pleas that are trotted out:

"But the Indian problem is as simple or as complicated as you like to make it. There is no part of this globe where the religious, racial and economic difficulties give more scope to the obstructionists. As against that, few facts are simpler to understand



than that the effort by a few thousand white men to keep under control some three hundred and fifty million brown men in a lasting and dangerous cause of unrest.....There are millions of Indians, ready to fight for India, but why should we expect them all to be ready to fight for British rule over India?

“Because so many of them fought in the last war? But their effort, then, has not brought them self-government, although while that war was still in progress, the other dominions achieved Home Rule.

“The leaders of the Congress Party claim independence for India on the principle of democratic self-determination—that means that they are *ipso facto* allied to us against Hitlerism.

“Congress does not represent the whole of India? There are minorities that must be protected? But what party anywhere represents a white population? Where are there no minorities? The Hindu-Moslem disputes undoubtedly make the problem much more difficult but the difficulty will be never lessened if we in Great Britain make Home Rule of India dependent upon their disappearance.”

In the words of Shri Mahadeo Desai what is wanted is “a great act of Daring Faith”. What India wants to-day is that the British statesmen should take that bold step not only as they did in 1922 in the interests of justice, but also in order to put Britain straight with the world and to justify

their professions. They should forget the old language of Imperialists and open a new chapter for all those who have been held under Imperial bondage. It has been proved by Shri Mahadeo Desai that on the moral side, too, the case of India is much stronger than that of Ireland. It is evident from the barest examination of facts. The act of faith on behalf of the British Government in granting the right of self-determination to Ireland was in response not to any services rendered, but to a war of liberation marked by hideous excesses on both sides. There having been no less than 147 Guerrilla warfare conflicts in Dublin alone, whilst India put 1,401,350 troops in the field during the Great War. Ireland fomented a rebellion, which had to be put down with great severity and which caused Britain exasperating embarrassment. After the war there was a great deal of republican activity with shootings, burnings, lootings and other outrages.

Now, when India has become a test case for Britain's professions and her sincerity for the establishment of a world democracy, let us see how it fares with us. Unlike that of Ireland or even South Africa, India's case rests on her non-violent strength. If Britain does not turn to be true and honest about her professions, India may rebel but that will be a non-violent rebellion. India wants her birthright and that she finds in a Constituent Assembly, where elected representatives of the

nation shall meet and set up the organic law of the State. It shall not be dictated or determined by Great Britain. They must be determined by us.

Thus the Constituent Assembly has come to play an important part in our modern political life. The Congress which can rightly be called to represent the entire Indian nation, stands for such an assembly for it alone can be the symbol of India's freedom and the fountain of her people's strength. Through it India hopes to attain the dignity of an enfranchised nation, fashion its will to self-determination and find its own soul to express it through fundamental laws.

